

Independent School Guide

**General Information for
Vermont Approved and
Recognized Independent Schools
Approved Tutorials and Distance Learning Schools
Other Educational Programs
State-Operated Facilities**

May 2009



**Independent and Federal Programs
(802) 828-5414**

STATE OF VERMONT

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GENERAL INTRODUCTION FOR VERMONT'S INDEPENDENT SCHOOLS

The Vermont Legislature and the Vermont State Board of Education have consistently encouraged the development of strong independent schools. Indeed, the State Department of Education, State Board, Legislature and many citizens cooperated in 1988-89 in rewriting 16 V.S.A. § 166. These new changes became effective as of July 1, 1990.

Current Vermont law provides two choices for independent schools. Approved independent schools make application according to 16 V.S.A. § 166 and Vermont State Board rules 2220 - 2225.11. After a site visit, recommendations are submitted to the State Board of Education. Recognized independent schools present information to the Commissioner of Education as provided for in 16 V.S.A. §166 (c). Recognized independent schools are not subject to approval by the Vermont State Board of Education. Additionally, statutes provide for tutorial programs, distance learning schools, and programs for pregnant and postpartum pupils.

At present there are a number of independent schools that reflect the variety of needs and educational philosophies that exist in the state. It is through this unique network that special needs and educational alternatives are able to flourish. The Vermont State Board of Education views these schools as an important element of our educational system offering learning opportunities to students in Vermont.

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APPROVED INDEPENDENT SCHOOLS

Persons seeking approval for an independent school should arrange to meet with a representative of the Department while plans for the school are still in a formative stage. At that time the particulars of the approval process and the form of written application required will be reviewed carefully to insure that the applicant fully understands what should be done and how it should be accomplished.

The application process takes approximately 6-8 months. If possible, a meeting should be arranged before commitments are made to lease or purchase a site and/or buildings for the school. To arrange a meeting, or request further information on the independent school approval process, call or write:

Patricia Pallas Gray
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STATUTES RELATING TO APPROVED INDEPENDENT SCHOOLS AND DISTANCE LEARNING SCHOOLS

Definitions 16 V.S.A. § 11

- 20) "Approved Independent School" means an independent school which is approved under 16 V.S.A. § 166.

Approved Independent Schools 16 V.S.A. § 166

- a) An independent school may operate and provide elementary education or secondary education if it is either approved or recognized as set forth herein.
- b) **Approved Independent School.** On application, the State Board shall approve an independent school which offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study and that it substantially complies with the Board's rules for approved independent schools. The Board's rules must at a minimum require that the school has the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any state or federal law or regulation. Approval may be granted without Vermont State Board evaluation in the case of any school accredited by a private, state or regional agency recognized by the Vermont State Board for accrediting purposes.
- 1) On application, the Vermont State Board shall approve an independent school which offers kindergarten but no other graded education if it finds, after opportunity for hearing, that the school substantially complies with the Board's rules for approved independent kindergartens. The Vermont State Board may delegate to another state agency the authority to evaluate the safety and adequacy of the buildings in which kindergartens are conducted, but shall consider all findings and recommendations of any such agency in making its approval decision.
- 2) Approvals under this section shall be for a term established by rule of the Board but not greater than five years.
- 3) An approved independent school shall provide to the parent or guardian responsible for each of its pupils, prior to accepting any money for that pupil, an accurate statement in writing of its status under this section, and a copy of this section. Failure to comply with this provision may create a permissible inference of false advertising in violation of T.13, V.S.A. §2005.

- 4) Each approved independent school shall provide to the Commissioner on October 1 of each year the names and addresses of its enrolled pupils. Within seven days of the termination of a pupil's enrollment, the approved independent school shall notify the Commissioner of the name and address of the pupil. The Commissioner shall forthwith notify the appropriate school officials as provided in §1126 of this title.
- 5) The Vermont State Board may revoke or suspend the approval of an approved independent school, after opportunity for hearing, for substantial failure to comply with the minimum course of study, for failure to comply with the Board's rules for approved independent schools, or for failure to report under subdivision (b)(4) of this section. Upon revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in an approved public school, approved or recognized independent school or approved home instruction program.
- 6) This subdivision applies to an independent school located in Vermont which offers a program of elementary or secondary education through correspondence, electronic mail, satellite communication or other means and which, because of its structure, does not meet some or all the rules of the state board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the state board for approved independent schools which can be applied to the applicant school and any other standards or rules adopted by the state board regarding these types of schools. A school approved under this subdivision shall not be eligible to receive tuition payments from public school districts under chapter 21 of this title. However, a school district may enter into a contract or contracts with a school approved under this subdivision for provisions of some education services for its students.
- 7) Approval for [independent residential schools](#) under this subsection is also contingent upon proof of the school's satisfactory completion of an annual fire safety inspection by the department of public safety or its designee pursuant to subchapter 2 of chapter 173 of [Title 20](#). A certificate executed by the inspecting entity, declaring satisfactory completion of the inspection and identifying the date by which a new inspection must occur, shall be posted at the school in a public location. The school shall provide a copy of the certificate to the commissioner of education after each annual inspection. The school shall pay the actual cost of the inspection unless waived or reduced by the inspecting entity.
- e) The board of trustees of an independent school operating in Vermont shall adopt harassment policies, establish procedures for dealing with harassment of students, and provide notice of these as provided in section 565 of this title for public schools, except that the board shall follow its own procedures for adopting policy.
- f) An approved independent school which accepts students for whom the district of residence pays tuition under Chapter 21 of this title shall bill the sending district monthly for a state-

placed student and shall not bill the sending district for any month in which the state-placed student was not enrolled.

- g) An approved independent school which accepts students for whom the district of residence pays tuition under chapter 21 of this title shall use the assessment or assessments required under subdivision 164(9) of this title to measure attainment of standards for student performance of those pupils. In addition the school shall provide data related to the assessment or assessments as required by the commissioner.

Oath

16 V.S.A. § 12

A superintendent, principal or teacher in a public school or the state, or a professor, instructor or teacher who will be employed hereafter by a university, or college in the state, which is supported in whole or in part by public funds, or in an independent school or other educational institution accepted by the State Department of Education as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the constitution of the United States of America, the constitution of the State of Vermont, and the laws of the United States and the State of Vermont; provided however, that such oath shall not be required of any person so employed who is a citizen of a foreign country.

Teachers and administrators in all schools, public, approved, or recognized independent, are required to subscribe to an oath to support the constitutions and laws of the United States and the State of Vermont. Printed forms for the educators' oath may be obtained from the Department of Education. Oath is printed on Page 91 of this guide.

STATE BOARD RULES FOR APPROVED INDEPENDENT SCHOOLS

Initial Approval

Section 2225 of the Vermont State Board of Education regulations outlines the general contents of the written application which must be prepared on behalf of an independent school for which Board of Education approval is sought. The application process takes approximately 6-8 months. The written application must be received at least thirty (30) days prior to the scheduled site visit.

Upon receipt of an application, a review committee will be formed to review the application, visit the school, and meet with the administration and staff. This team will include people who have the appropriate educational background in the areas the school emphasizes.

The review committee will make a recommendation to the State Board of Education. The recommendation is acted upon as part of the Board's consent agenda at a monthly Vermont State Board meeting. At the time of the vote, this action may not be discussed in the open session of the meeting.

Re-approval

There is a maximum of a five-year approval that may be given after the initial approval for new schools. Re-approval is done by submitting a new application as outlined in 16 V.S.A. § 166 and Section 2225 of the Vermont State Board of Education rules. Schools may also be approved by those accrediting agencies listed in Vermont State Board Rule No. 7320.

The application process is initiated by the State of Vermont. Six months prior to the end of the approval period the Department will mail an information packet to the school. A site visit appointment will be made and the application **MUST** be received thirty (30) days prior to the site visit. The re-approval process continues as in the initial approval process.

State Board

Rule #:

2220 Approval of Independent Elementary and Secondary Schools

Statement of Purpose

The purpose of independent school approval rules is to assure acceptable educational opportunities for students enrolled in Vermont's independent schools.

2221 Statutory Authority: 16 V.S.A. § 166 and 16 V.S.A. § 2958(e)

2222 Procedure. Every person or entity desiring to operate an approved independent elementary or secondary school shall apply in writing to the Commissioner of Education. Independent schools which are recognized as provided for in 16 V.S.A. § 166 (c) rather than approved are not required to comply with the procedures set forth in this section. An application shall meet the requirements of § 2225.1-2225.11 below.

Upon receipt of an application for initial approval or renewal of approval the Commissioner shall appoint a review committee of at least two persons.

The process below (2222.1 to 2222.7) shall be followed.

2222.1 Visit. The review committee shall visit the school. To the extent possible, the visit shall be coordinated by the Commissioner with other agencies of state government which inspect such facilities.

2222.2 Report. The committee shall present a written recommendation regarding approval to the Commissioner. A copy of their recommendation shall be provided at the same time to the applicant. The applicant shall be given 30 days to respond before a recommendation regarding approval is made by the Commissioner to the State Board. The report shall contain the findings of other agencies of state government which inspect such facilities.

2222.3 Review. The Commissioner shall designate a date for action by the Board. Officials of the school shall be notified of this date.

2222.4 Renewal. Not less than six months prior to expiration of a school's approval, the Commissioner shall send an application packet and a letter notifying the school when the site visit will occur and that the completed application must be received from the school not later than 30 days prior to the scheduled site visit.

2222.5 Extension. Approval of a school completing timely application for further approval shall extend until the Board acts on further approval.

2222.6

- 2222.6 Termination.** Approval of an independent school which fails to complete timely application for further approval shall terminate on the date specified in the most recent approval action.
- 2222.7 Denial, Revocation or Suspension of Approval.** Prior to recommending denial, revocation or suspension of approval the Commissioner shall obtain the written recommendation of the Council of Independent Schools. If after receiving the Council's recommendation the Commissioner determines that denial, revocation or suspension of approval is warranted, s/he shall notify the school of the reasons for the proposed action and shall afford the school an opportunity to be heard by the Board. Approval of an independent school shall be revoked or suspended by the Board based on a finding that the school no longer meets the criteria for approval listed in Section 2226.1-2227.
- 2222.8 Investigations.** Reports or complaints to the Commissioner concerning matters related to the approval standards shall be investigated if it appears such action is warranted. The school shall receive notification of the complaint unless contradicted by the particular facts. A review team of at least two persons shall be appointed by the Commissioner including a member of the Council of Independent Schools. The team will conduct the investigation after initial inquiries and will inform the school of the results. Reports of drug or alcohol use shall be referred to the state's attorney for the county in which the school is located. Reports of child abuse or neglect shall be reported to the Department of Social and Rehabilitation Services. Reports concerning the safety of facilities, water supply, electricity, plumbing or waste disposal systems shall be referred by the Department to the appropriate public agency.
- 2223 Reciprocity.** Approval may be granted without committee evaluation and the approval process in the case of any school accredited by a state or regional agency recognized by the State Board for accrediting purposes. Such accrediting agencies are listed in Rule 7320 of the Board Manual of Rules and Practices. Any accreditation from a recognized accrediting agency that is valid for more than five years must be supplemented with an interim report from the accrediting agency which should be submitted to the Department of Education by the accrediting agency or the school during the last year of its five-year approval. This interim report must provide such information as is necessary to assure the State Board that the school is meeting the approval standards. If such proof of compliance with approval standards cannot be shown the school must undergo the approval process.
- 2224 Tuition From Public Funds**
- 2224.1** Tuition may not be paid from public funds to any elementary or secondary school not approved by the Board.
- 2224.2 Tuition for Independent Schools**
Tuition shall not be paid from public funds to any independent elementary or secondary school in Vermont for any Vermont student who has been determined eligible for special education unless:

- (a) the school is approved for special education purposes pursuant to Rule 2228 et seq.; or
- (b) there is an order from a court or from a due process hearing pursuant to Rule 2365.1.6 requiring such payment, or
- (c) The Commissioner has approved an exception for a placement in an independent school pursuant to Rule 2228.2(2).

2224.3 In order for tuition to be paid to an independent school in another state, the school must be accredited or approved by the host state or by an accrediting agency recognized by the State Board. The State Board reserves the right to refuse payment of tuition, if after review it determines any such school does not provide the minimum course of study, is unsafe, or does not have faculty qualified by training and experience in the instructional area in which they are assigned.

Application

An application for initial approval or renewal of approval shall contain the following:

- 2225.1** The name and address of the school.
- 2225.2** A statement of the school's philosophy.
- 2225.3** A description of the school enrollment including a statement of whether it is designed to serve children with a particular disability or with disabilities generally.
- 2225.4** A description of the plan of organization for the school including its governance, faculty, and student body, and the names and addresses of the governing board.
- 2225.5** A description of the curriculum, methods of instruction, evaluation procedures and special services which the school has designed to achieve its educational objectives and to provide a minimum course of study as defined in 16 V.S.A. §906.
- 2225.6** A description of physical facilities including plant, materials and equipment and assurances that the facilities meet all applicable state and federal requirements.
- 2225.7** Evidence of compliance with local, state and federal requirements pertaining to the health and safety of pupils.
- 2225.8** Statements regarding professional staff including:
 - 2225.8.1** Professional Staff Qualifications
 - (1) A job description for each position or a statement describing training, experience and degree(s) required for each position;
 - (2) A resume, vita or description of appropriate qualifications for each current professional staff member;
 - (3) Current assignment of each professional staff member.
 - 2225.8.2** Professional Staff Development.
 - (1) A general statement of the institution's expectations for professional growth of staff.
 - (2) A statement describing the school's inservice training and financial and other support given to staff for professional development; and
 - (3) A description of professional development in the prior two years.

2225.8.3 Professional Environment

- (1) A list of staff and length of service.
- (2) A description of staff meetings.
- (3) A description of other staff duties that are not related to teaching or administrative duties.

2225.9 Evidence of financial capacity may be shown by one of the following:

- (1) An audit letter by a certified accounting firm from the present or prior year describing financial capacity;
- (2) A notarized letter summarizing the financial status within the present or prior fiscal year signed by the board of directors or governing body;
- (3) An audit from the present or prior fiscal year performed by a certified accounting firm; or
- (4) A statement of financial capacity of a private, state, or regional agency recognized by the State Board for accrediting purposes concerning the school's financial capacity.

2225.10 The school calendar.

2225.11 Copies of publications for distribution to applicants for admission including the statement required by 16 V.S.A. §166(b)(3).

The Board may approve an independent school if it finds that:

2226.1 The description of the school in the approval application is accurate.

2226.1.1 The course of study offered is adequate to meet the educational purposes of the school and to provide a minimum course of study that is age and ability appropriate.

2226.3 The school has available support services necessary to meet the requirements of a minimum course of study and its educational purposes, including but not limited to library services, administrative services, guidance and counseling services and a system of records by which pupil progress may be assessed.

2226.4 The school has classroom, laboratory, library and other facilities necessary to operate its program.

- 2226.5** The school employs professional staff who are qualified by training and experience in the areas in which they are assigned as measured by the following:
- 2226.5.1** For teachers, a minimum of a bachelor's degree in their field of instruction or substantially equivalent time in training and experience in their field of instruction.
 - 2226.5.2** For all professional staff, relevant experience and/or training in other programs not related to teaching or administrative duties to which they are assigned.
- 2226.6** The school has an adequate program of continuing professional staff development as demonstrated in the application.
- 2226.7** The school employs a sufficient number of professional staff for the population served.
- 2226.8** The school satisfies lawful requirements relative to its facilities, fire drills, and the immunization of its pupils against disease.
- 2226.9** The school maintains a register of the daily attendance of each of its pupils and meets the requirements of law regarding the reporting of its enrollment.
- 2226.10** The school maintains an operating schedule that includes a total number of instructional hours each year which is not less than that required of a public school serving the same grades.
- 2226.11** The school has the financial capacity to carry out its educational purposes for the period of approval.
- 2227** Length of Approval. The Board may grant initial approval for a period of not more than two years, and renewal of approval for not more than five years.

7320 Recognized Accrediting Agencies

Certain regional agencies have been recognized by the State Board of Education for accrediting purposes:

- New England Association of Schools and Colleges, Burlington, Massachusetts.
- Middle States Association of Colleges and Schools/Commission on Higher Education, Philadelphia, Pennsylvania.
- Northwest Association of Schools and Colleges, Seattle, Washington.
- Southern Association of Colleges and Schools Commission on Colleges, Atlanta, Georgia.
- Western Association of Schools and Colleges – Accrediting Commission for Senior Colleges, Oakland, California.
- North Central Association of Colleges & Schools, Chicago, Illinois.
- Office of Overseas Schools, Department of State, Washington, D.C.
- Department of Education, Northern New England Conference of Seventh-Day Adventists, Portland, Maine.
- Diocesan School Board, Burlington, Vermont.
- National Association of Trade & Technical Schools, Washington, D.C. (For non-degree granting purposes only).

STATE BOARD RULES FOR DISTANCE LEARNING SCHOOLS

State Board Rules #:

- 2231** **Approval of Distance Learning Schools**
- 2232** **Statutory Authority:** 16 V.S.A. Section 166 (b)(6)
- 2233** **Definition:** A “Distance Learning School” means an independent school which offers a program of elementary or secondary education through correspondence, electronic mail, satellite communication or other means and which, because of its structure, does not meet some or all the rules of the state board for approved independent schools.
- 2234** **Procedures and Standards:** The distance learning school shall meet the procedures and standards set forth in rules 2220-2227 above, which because of its structure can be applied, and the following rules:
- 2234.1** The distance learning school’s business and administrative offices are located in Vermont and are sufficient to meet the needs of the school.
- 2234.2** The distance learning school follows Vermont requirements for incorporation pursuant to Titles 11, 11A, and 11B of Vermont Statutes Annotated.
- 2234.3** The distance learning school offers an educational program which is developed and assessed by staff who are other than the parents of the students and who are either employed by the school or under contract with the school.
- 2234.4** The distance learning school has policies and procedures to:
- (1) Enroll students who reasonably can be expected to benefit from the instruction offered by the program, and,
 - (2) Measure student progress to ensure that students continue to benefit from such instruction.
- 2234.5** The distance learning school has policies and procedures to answer student and parent inquiries about programs and services promptly and satisfactorily and to answer specific student academic inquiries in a timely and beneficial way.
- 2234.6** The distance learning school has policies and procedures for informing students and parents of academic progress on a regular basis.

2234.7 Tuition:

- 2234.7.1** Tuition policies, including tuition collection practices, are written, clear, and provided to parents in advance of enrollment.
- 2234.7.2** The distance learning school had clear policies on refunds of tuition payments, when students choose not to or are unable to complete the program of instruction.
- 2234.7.3** In the event that the school closes, the distance learning school has policies for:
- (1) Tuition adjustment or refund, and
 - (2) Preservation and release of student records.

STATUTES RELATING TO APPROVED KINDERGARTENS

Definitions 16 V.S.A. § 11

- 20) “Approved Independent School” means an independent school which is approved under 16 V.S.A. § 166.

Approved Independent Schools 16 V.S.A. § 166

- a) An independent school may operate and provide elementary education or secondary education if it is either approved or recognized as set forth herein.
- b) **Approved Independent School.** On application, the State Board shall approve an independent school which offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study and that it substantially complies with the Board’s rules for approved independent schools. The Board’s rules must at minimum require that the school has the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any state or federal law or regulation.

Approval may be granted without Vermont State Board evaluation in the case of any school accredited by a private, state or regional agency recognized by the Vermont State Board for accrediting purposes.

- 1) On application, the Vermont State Board shall approve an independent school which offers kindergarten but no other graded education if it finds, after opportunity for hearing, that the school substantially complies with the Board’s rules for approved independent kindergartens. The Vermont State Board may delegate to another state agency the authority to evaluate the safety and adequacy of the buildings in which kindergartens are conducted, but shall consider all findings and recommendations of any such agency in making its approval decision.
- 2) Approvals under this section shall be for a term established by rule of the Board but not greater than five years.
- 3) An approved independent school shall provide to the parent or guardian responsible for each of its pupils, prior to accepting any money for that pupil, an accurate statement in writing of its status under this section, and a copy of this section. Failure to comply with this provision may create a permissible inference of false advertising in violation of T.13, V.S.A. § 2005.

- 4) Each approved independent school shall provide to the Commissioner on October 1 of each year the names and addresses of its enrolled pupils. Within seven days of the termination of a pupil's enrollment, the approved independent school shall notify the Commissioner of the name and address of the pupil. The Commissioner shall forthwith notify the appropriate school officials as provided in §1126 of this title.
- 5) The Vermont State Board may revoke or suspend the approval of an approved independent school, after opportunity for hearing, for substantial failure to comply with the minimum course of study, for failure to comply with the Board's rules for approved independent schools, or for failure to report under subdivision (b)(4) of this section. Upon revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in an approved public school, approved or recognized independent school or approved home instruction program.

Oath

16 V.S.A. § 12

A superintendent, principal or teacher in a public school or the state, or a professor, instructor or teacher who will be employed hereafter by a university, or college in the state, which is supported in whole or in part by public funds, or in an independent school or other educational institution accepted by the State Department of Education as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the constitution of the United States of America, the constitution of the State of Vermont, and the laws of the United States and the State of Vermont; provided however, that such oath shall not be required of any person so employed who is a citizen of a foreign country.

Teachers and administrators in all schools, public, approved, or recognized independent, are required to subscribe to an oath to support the constitutions and laws of the United States and the State of Vermont. Printed forms for the educators' oath may be obtained from the Department of Education. Oath is printed on Page 91 of this guide.

STATE BOARD RULES FOR APPROVED KINDERGARTENS

State Board

Rules #:

2270 Statutory Authority: 16 V.S.A. § 166(b)

PROCEDURE FOR APPROVAL

2271.1 Application. Every person or entity seeking to operate as an approved kindergarten shall apply in writing to the Commissioner of Education

An application for approval shall contain the following:

- Name & address of the school
- A description of the school's curriculum and methods of instruction
- A description of the school's physical facilities
- A list of the school's staff and their qualifications
- The operating schedule of the school and
- A statement certifying that the school is in compliance with the Kindergarten Nursery School provisions in the Regulations for Day Care of the Social and Rehabilitation Services Department (hereinafter "SRS Kindergarten Regulations").

2271.2 Appointment of Reviewer. Upon receipt of an application for approval, the Commissioner shall appoint an educator to review the application and visit the school. In addition, the Commissioner shall contact SRS to determine on his or her behalf whether the school meets the "SRS Kindergarten Regulations." First priority for preview shall be given to private Kindergartens that are located in the vicinity of towns where the local school board or town has taken a formal vote to provide public supported kindergarten.

2271.3 Review. The appointed educator shall review the application and visit the school.

2271.4 Report to Commissioner. The appointed educator shall present a written recommendation regarding approval to the Commissioner. The report of the appointed educator shall incorporate the determination of SRS concerning compliance with the "SRS Kindergarten Regulations." A copy of the recommendation shall be provided at the same time to the applicant.

2271.5 Board Recommendation. The Commissioner shall recommend approval or disapproval for action by the State Board at their next meeting. Officials of the kindergarten shall be notified of this meeting date.

2272 Criteria for Approval.

The State Board shall approve a private kindergarten if it finds that:

2272.1 The curriculum embodies a minimum course of study, as defined in 16 V.S.A. §906, Courses of Study, with learning experiences adapted to a pupil's age and ability.

2272.2 The school is in compliance with state regulations pertaining to the health and safety of pupils adopted by the Department of Labor and Industry and the Department of Health. In regards to health requirements, private kindergartens located in elementary or secondary school buildings shall comply with the Environmental Health Regulations for School Houses (Chapter 5, Subchapter 3, Vermont Health Regulations). All other private kindergartens shall comply with the Environmental Health Regulations for Day Care Facilities (Chapter 5, Subchapter 14, Vermont Health Regulations).

2272.3 The director and teachers in the kindergarten are qualified through training or experience in:

- structuring kindergarten learning environments which enhance cognitive and social development
- teaching skills and concepts in mathematics, language arts, science, the arts, and health which are consistent with principles of child development
- planning and leading activities that foster social and emotional growth in young children
- dealing with parents and family of children to ensure home support and to promote learning outside of the school or center;
- identifying developmental delays in young children.

2272.4 The kindergarten maintains an operating schedule that, exclusive of time allowed for meals and recess periods, includes a total number of instructional hours which is not less than that required of a public school kindergarten. (State Board of Education Policy Manual, 1981, Section 2311.4).

2272.5 The facility and program meet the "SRS Kindergarten Regulations."

2273 Additional Requirements.

2273.1 Approved private kindergartens shall maintain records of attendance, health, and progress for public tuition students, in a form required by the school district and in accordance with state and federal law. These records shall be transferred to the public schools no later than July 15 after the end of the school year.

2273.2 The director and teachers in an approved private kindergarten shall participate in professional development activities provided by the public school district.

- 2274** **Term of Approval.** The State Board may grant approval for a term of not more than two years. A private kindergarten must be approved prior to receiving tuition payments from a public school district.
- 2275** **Denial, Revocation or Suspension of Approval.** Prior to recommending denial, revocation or suspension of approval to the State Board, the Commissioner shall notify the kindergarten of the reasons for the proposed action and shall afford the kindergarten an opportunity to be heard by the Board. Approval of a kindergarten shall be revoked or suspended by the Board based on a finding that the kindergarten no longer meets the criteria for approval.

STATUTES RELATING TO TUTORIAL PROGRAMS

16 V.S.A. §11

- 27) “Tutorial program” means education provided to a pupil who is placed in a short-term program for evaluation and treatment purposes.

16 V.S.A. §828

Tuition to approved schools, age, appeal

A school district shall not pay the tuition of a pupil except to a public or independent school or tutorial program approved by the state board, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

STATE BOARD RULES FOR TUTORIAL PROGRAMS

State Board

Rules #:

2230 Approval of Tutorial Programs: Statutory authority 16 V.S.A. §828.

2230.1 Definition: Tutorial program means education provided to a pupil who is placed in a short term program that is not administered by a school district. The purposes of the program is to provide evaluation and/or treatment. This does not include home based tutorials, programs operated by a public school or collaborative, or a program of an independent school that has been approved under 16 V.S.A. §166. The average length of stay for students in a tutorial program shall be not more than six months. The commissioner may waive the average length of stay time period for individual programs, based upon needs of the students served by the program.

2230.2 Procedures for Approval:

2230.2.1 Application shall include the following:

- (1) Name, address, telephone number of the tutorial program,
- (2) Name of the Chief Executive Officer or contact person,
- (3) A statement of the tutorial program’s purposes and objective,
- (4) A description of the tutorial program enrollment including a statement of who designed to serve,
- (5) A description of the plan of organization for the tutorial program, and
- (6) A tutorial program calendar.

- 2230.2.2** Review: Upon receipt of an application for approval, the Commissioner shall appoint a committee of at least two persons to review the application and visit the tutorial program.
- 2230.2.3** Report to the Commissioner: The appointed committee shall present a written recommendation regarding possible approval to the Commissioner. A copy of the recommendation shall be sent to the tutorial program. The applicant shall be given at least 30 days to respond before a recommendation regarding approval or disapproval is made by the Commissioner to the State Board of Education.
- 2230.2.4** Board Action: The Commissioner shall recommend approval or disapproval for action by the State Board at their next meeting. Officials of the tutorial program shall be notified of this meeting date.
- 2230.2.5** Term of Approval: The State Board may grant approval for a term of not more than two years. The tutorial program must be approved prior to receiving tuition payments from a public school district.
- 2230.2.6** Renewal: Not less than three months prior to expiration of a tutorial program's approval, the Commissioner shall send an application packet and a letter notifying the program when the site visit will occur. The completed application must be received from the tutorial program not later than 30 days prior to the scheduled site visit.
- 2230.2.7** Denial, Revocation or Suspension of Approval: Prior to recommending denial, revocation or suspension of approval to the State Board of Education, the Commissioner shall notify the tutorial program of the reasons for the proposed action and shall afford the tutorial program an opportunity to be heard by the Board. Approval of a tutorial program shall be revoked or suspended by the Board based on a finding that the tutorial program no longer meets the criteria for approval.
- 2230.2.8** The Vermont State Board of Education shall afford the opportunity for approved tutorial programs to participate in the development and revision of state standards that apply to tutorial programs.
- 2230.3** In order for a tutorial program to obtain approval from the State Board of Education, the program shall meet both the general and special education requirements in the following areas:
- 2230.3.1** The instruction and methods of instruction offered are age and ability appropriate for the student, and are coordinated with the student's responsible school district as set forth in §2230.3.10 below.
- 2230.3.2** The tutorial program has sufficient facilities and materials or access to other facilities and additional materials as necessary to provide an appropriate education.

- 2230.3.3** The tutorial program's facilities and operation comply with local, state and federal requirements pertaining to the health and safety of students.
- 2230.3.4** The tutorial program employs an adequate number of professional staff for the population served and these staff members are qualified by training and experience in the areas in which they are assigned.
- 2230.3.5** Teachers providing or supervising the provision of special education have licensure and endorsement as would be required for the equivalent work in a Vermont public school.
- 2230.3.6** All professional staff have relevant experience and/or training in the duties to which they are assigned.
- 2230.3.7** The tutorial program maintains a register of the daily attendance of each of its pupils and reports the attendance to the responsible school district.
- 2230.3.8** The tutorial program maintains an operating schedule that includes instruction for no less than 10 hours per week unless inconsistent with medical and/or educational recommendations. The operating schedule must be sufficient to ensure that the instructional services address the individual needs of a student with disabilities and are consistent with the student's IEP.
- 2230.3.9** The tutorial program has the financial capacity to carry out its educational purposes for the period of approval.
- 2230.3.10** The tutorial program coordinates educational services with the responsible school district, including credit for coursework for high school and coordinates with other responsible agencies such as Social and Rehabilitative Services, Community Mental Health Centers, and Family- Parent Child Centers by:
 - 2230.10.1** Contacting the responsible school district(s) (see 16 V.S.A. §1075) in order to access school records and determine the special education status of the student;
 - 2230.10.2** Reviewing the IEP, the student's needs and its own ability to implement the IEP;
 - 2230.10.3** Making a formal referral for a special education evaluation to the responsible school district, if when receiving a student, he/she is suspected of having a disability;
 - 2230.10.4** Maintaining educational records and disclosing them to the responsible school district and the student's parents, unless restricted by statute, court order or other legally binding document specifically revoking those rights;

2230.3.10.5 Participating in evaluation procedures and in the development of IEPs, including plans for reintegration and transition services;

2230.3.10.6 Implementing IEPs;

2230.3.10.7 Providing prior notice to the responsible school district regarding the need for a change in a student's program or placement, including long-term suspension or expulsion.

2230.3.11 In order to obtain approval, a tutorial program shall meet special education standards that apply to state and local education agencies. This shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate, in at least the following areas:

- (1) Admissions
- (2) Discipline and
- (3) Significant change in placement.

2230.4 Rate Approval for Tutorial Programs.

2230.4.1 Each tutorial program shall annually report its rates for tuition, related services and room and board, if applicable, to the Commissioner on a form prescribed for that purpose.

2230.4.2 The rates that a tutorial program charges for tuition, related services and room and board shall be reasonably related to the actual costs of the services provided. Reasonable relationship shall be determined by utilizing generally accepted accounting principles, such as those set forth in the, "Handbook (11) for Financial Accounting of Vermont School Systems."

2230.4.3 The Commissioner shall review each tutorial program's annual rate report. If the Commissioner concludes that a tutorial program's rates are not reasonably related to the services provided, the Commissioner shall make a determination as to the maximum rate that public schools and the State Department of Education would pay to the tutorial program for those services and offer that tutorial program an opportunity for explanation regarding why the maximum rate the Department would pay is not adequate. If the explanation is not satisfactory, the Commissioner shall refer the matter to the State Board of Education.

2230.4.3.1 Upon such referral by the Commissioner, the State Board of Education shall conduct a formal proceeding in accordance with the requirements of Rule 1230, et seq.

2230.4.3.2 The State Board of Education's determination shall be final.

STATUTES AND STATE BOARD STANDARDS FOR APPROVED EDUCATIONAL PROGRAMS

Definitions 16 V.S.A. §1073(b)

- (b) No legal pupil, including a married, pregnant or postpartum pupil, shall be deprived of or denied the opportunity to participate in or complete an elementary and secondary public school education. Notwithstanding the provisions of sections 822 and 1075 of this title, for reasons related to the pregnancy or birth, a pregnant or postpartum pupil may attend any approved public school in Vermont or an adjacent state, approved independent school in Vermont, or other educational program approved by the state board. The commissioner shall pay the educational costs for a pregnant or postpartum pupil attending a state board approved educational program in a 24-hour residential facility for up to eight months after the birth of the child. The commissioner may approve extension of payment of educational costs based on a plan for reintegration of the student into the community or for exceptional circumstances as determined by the commissioner. The district of residence of a pupil in a 24-hour residential facility shall remain responsible for coordination of the pupil's educational program and for planning and facilitating her subsequent educational program.

State Board Standards:

I. Purpose

The purpose of these standards is to establish consistent criteria for Vermont State Board of Education evaluation and approval of programs which are neither approved public or independent schools but which provide educational services to pregnant or postpartum pupils pursuant to 16 V.S.A. §1073(b).

II. Definitions

“Program is an “other educational program” under 16 V.S.A. §1073(b) which has applied for or received State Board approval.

“Minimum course of study” is the course of study defined in 16 V.S.A. §906.

III. Procedure

A. Application

A program shall apply for approval by completing an application form provided by the Vermont Department of Education. The form shall require the applicant, at a minimum, to describe the proposed student body, the program's facilities, the administration of the program, the faculty and its qualifications, the course of study offered, and the manner in which services will be provided in collaboration with the school districts of residence of

the students. The application shall be submitted to the Vermont Department of Education's consultant for home study and independent schools.

B. Review

The Deputy Commissioner of the Vermont Department of Education shall appoint a review team of no less than two persons, at least one of whom shall be a Department of education employee. The team shall review the application, and if necessary, seek additional information and/or visit the program. The team shall then report to the Commissioner of the Vermont Department of Education within sixty days of receipt of the application unless further time is required and the reasons therefor explained in writing to the applicant. The report shall contain a recommendation that the program be approved, not approved or conditionally approved. If the recommendation is that the program be conditionally approved or not be approved, the report shall contain recommendations as to what corrections are needed before full approval could be recommended. The report shall also be submitted to the program which shall have fifteen days to respond.

Following such response, the Commissioner shall make a recommendation to the State Board of Education. The program shall have an opportunity to be heard before the State Board of Education. A term of approval may be for a period of no more than three years. The process for reapproval shall be the same as for approval.

After approval, the program shall furnish such information as is requested from time to time by the Commissioner and, on its own initiative, shall inform the Commissioner in an annual report on the anniversary of its approval of significant changes in the program. If the Commissioner has reason to believe that the program no longer meets the standards for approved programs, he or she may initiate a review which shall follow the same procedures as a review for approval. In such a case, the review team shall recommend to the Commissioner that the program continue to be approved, that the program's approval be terminated, or that the program must meet certain conditions by a specified date to continue its approval. If the Commissioner finds that the program's approval should be terminated or conditioned, he or she shall recommend such action to the State Board. The program shall have an opportunity to be heard before the State Board.

IV. Standards for Approval

A. Nature of the Program

1. The program shall offer the minimum course of study or a specified portion thereof to each student based upon a written agreement with the school district of the student's residence.
2. The program shall offer basic education, technical education or remedial and compensatory education services or any combination thereof.

3. The program's educational purpose shall be clearly stated.

B. Course of Study

The course of study offered shall be adequate to meet the educational purposes of the program and appropriate of the age and ability of the students.

C. Support Services

The program shall have available the support services necessary to meet the requirements of its course of study and its education purposes, including but not limited to library services, administrative services, guidance and counseling services and a system of recordkeeping by which pupil progress may be assessed.

D. Facilities

The program shall have classroom, laboratory, library or other facilities necessary and appropriate to provide its educational services. Facilities in which educational services are provided shall meet all applicable state and federal health and safety standards.

E. Professional Staff

The program shall employ professional staff who are qualified by training and experience in the educational areas in which they are assigned and in sufficient number to carry out the educational purposes of the program.

F. Administrative Services and Rates

The program shall have the capability to generate accurate billing to school districts based upon the actual time spent in educational programs by the students. Rates for educational services shall be reasonably related to the actual costs of providing such services.

G. Collaboration with Local School Districts

The program shall collaborate with the school district of the student's residence in the coordination and planning of the student's educational program and eventual return to the district. The written agreement required for each student by paragraph IV(A) above shall also include agreement of such items as the course credits that will be transferable to the school district of the student's residence and the rates for educational service.

H. Special Education

With respect to special education services, the program shall cooperate with the student's school district which shall provide such services directly or through contract with a private or public educational agency.

STATUTES FOR RECOGNIZED INDEPENDENT SCHOOLS

Definitions 16 V.S.A. § 11

- 19) "Recognized Independent School" for any school year means an independent school which meets the requirements for recognized independent schools in §166 of this title and which is not a home study program.

c) **Recognized Independent Schools** **16 V.S.A. § 166(c)**

Upon filing an enrollment notice a recognized independent school may provide elementary or secondary education in Vermont. The enrollment notice shall be on a form provided by the Commissioner and shall be filed with the Commissioner no earlier than three months before the beginning of the school year for the public schools in the town in which the applicant proposes to locate.

1) The enrollment notice shall contain the following information and assurances:

- A) a statement that the school will be in session an amount of time substantially equivalent to that required for public schools;
 - B) a detailed description or outline of the minimum course of study for each grade level the school offers, and how the annual assessment of each pupil will be performed; and
 - C) Assurances that:
 - i) the school will prepare and maintain attendance records for each pupil enrolled or regularly attending classes;
 - ii) at least once each year the school will assess each pupil's progress, and will maintain records of that assessment, and present the result of that assessment to each student's parent or guardian;
 - iii) the school's educational program will include the minimum course of study set forth in §906 of this title; and
 - iv) the school will have teachers and materials sufficient to carry out the school's educational program; and
 - v) the school will meet such state and federal laws and regulations concerning its physical facilities and health and safety matters as are applicable to recognized independent schools.
- 2) If the Commissioner has information that creates significant doubt whether the school would be able to meet the requirements set forth above, the Commissioner may call a hearing. At the hearing, the school shall establish that it can meet the

requirements for recognized independent schools. Failure to do so shall result in a finding by the Commissioner that the school must take specified action to come into compliance within a specified time frame or the children enrolled must attend another recognized independent school, approved independent or public school, or home study program, or be declared truant unless absent with legal excuse.

- 3) A recognized independent school shall provide to each student's parent or guardian a copy of its currently filed statement of objectives and a copy of this section. The copy shall be provided when the pupil enrolls or before September 1, whichever comes later. Failure to comply with this subsection may create a permissible inference of false advertising in violation of §2005 of Title 13.
- 4) A recognized independent school shall renew its enrollment notice annually. An independent school shall be recognized for a period not to exceed five years by the Commissioner without need for filing an annual enrollment notice if:
 - A) it is recognized by an organization approved by the Vermont State Board for the purpose of recognizing such schools, or
 - B) it is accredited by a private, state or regional agency approved by the Vermont State Board for accrediting purposes. Nothing contained herein shall be construed to prohibit the Commissioner from initiating a hearing under this section.
- 5) If the Commissioner has information that creates significant doubt about whether the school, once in operation, is meeting the requirements for recognized independent schools, the Commissioner may call a hearing. At the hearing, the school shall establish that it has met the requirements for recognized independent schools. Failure to do so shall result in a finding by the Commissioner that:
 - A) the school may not be in operation for the remainder of the school year and that the children are truant unless absent with legal excuse or enrolled in an approved public or independent school, another recognized independent school or a home study program; or
 - B) the school must take specified action to come into compliance within a specified time frame or the school will not be permitted to operate for the remainder of the school year.
- 6) Each recognized independent school shall provide to the Commission on October 1st of each year the names and addresses of its enrolled pupils. Within seven days of the termination of a pupil's enrollment, the recognized independent school shall notify the Commissioner of the name and address of the pupil. The Commissioner shall forthwith notify the appropriate school officials designated in §1126 of this title.

- 7) After the filing of the enrollment notice or at a hearing, if the school is unable to comply with any specific requirements due to deep religious conviction shared by an organized group, the Commissioner may waive such requirements if he or she determines that the educational purposes of this subsection are being or will be substantially met.
- e) The board of trustees of an independent school operating in Vermont shall adopt harassment policies, establish procedures for dealing with harassment of students and provide notice of these as provided in section 565 of this title for public schools, except that the board shall follow its own procedures for adopting policy.

Oath

16 V.S.A. § 12

A superintendent, principal or teacher in a public school or the state, or a professor, instructor or teacher who will be employed hereafter by a university, or college in the state, which is supported in whole or in part by public funds, or in an independent school or other educational institution accepted by the State Department of Education as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the constitution of the United States of America, the constitution of the State of Vermont, and the laws of the United States and the State of Vermont; provided however, that such oath shall not be required of any person so employed who is a citizen of a foreign country.

Teachers and administrators in all schools, public, approved, or recognized independent, are required to subscribe to an oath to support the constitutions and laws of the United States and the State of Vermont. Printed forms for the educators' oath may be obtained from the Department of Education. Oath is printed on Page 91 of this guide.

ENROLLMENT NOTICE FORMS RELATING TO RECOGNIZED INDEPENDENT SCHOOLS

Reporting Process

Recognized Independent Schools submit a yearly enrollment notice to the Commissioner of Education. Recognized Independent schools must file the enrollment notice forms provided by the Commissioner no earlier than three months before the beginning of the school year for the public schools in the town in which the school proposes to locate.

The forms include:

- A. The School Enrollment Notice Cover Sheet
- B. Statement of Objective
- C. Statement of Minimum Course of Study
- D. Statement of Assessment Procedures
- E. Signed Statement of Assurances
- F. Signed Statement of Policies and Procedures
- G. School's academic calendar
- H. Educator's Oath-signed and notarized

Some of the assurances given in letter E refer to those sections of 16 V.S.A. § 166 that must be carried out by the school. Others refer to those health, safety, and physical facility requirements of the regional department officials. Please reference Page 32 for these sections.

Recognized Independent School forms are at the end of this booklet.

When the forms are completed and appropriately signed and notarized, please mail your complete packet to:

Independent Schools
Vermont Department of Education
120 State Street
Montpelier, Vermont 05620-2501

These forms can also be found at http://education.vermont.gov/new/html/pgm_independent.html
In a format that allows you to complete the forms using your word processing program.

If you have questions, please call or email Pat Passas Gray at 828-5414 or
pat.pallasgray@state.vt.us

COUNCIL OF INDEPENDENT SCHOOLS

16 V.S.A. §166(d)

1) **Council of Independent Schools.** A council of independent schools is created consisting of eleven members, no fewer than three of whom shall be representatives of recognized independent schools. The Commissioner shall appoint nine members from within the independent schools' community. The Commissioner shall appoint two members from the public-at-large. Each member shall serve for two years and may be reappointed for up to an additional two terms, except that five of the first eleven appointments shall be for an initial term of one year. The council shall hold its organizational meeting before March 1, at the call of the Commissioner and shall adopt rules for its own operation. A chair shall be elected by and from among the members. The duties of the council shall include advising the Commissioner on policies and procedures with respect to independent schools. No hearing shall be initiated before the Vermont State Board or by the commissioner under this section until the recommendations of the council have been sought and received. The recommendations of the advisory council, including any minority reports, shall be admissible at the hearing. - Amended 1989, No. 44, V.S.A. 1.

Vermont Council of Independent Schools Members – 1/1/09 – 12/31/09

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Four (4) Vacancies

VERMONT STATUTES
AND
STATE BOARD OF EDUCATION RULES
RELATING TO INDEPENDENT SCHOOLS
(Listed alphabetically)

COMPULSORY ATTENDANCE

16 V.S.A. §1121

Attendance for Children of School Age Required.

A person having the control of a child between the ages of six and sixteen shall cause the child to attend an approved public school, an approved or recognized independent school or a home study program for the full number of days for which that school is held, unless the child:

- 1) is mentally or physically unable so to attend; or
- 2) has completed the tenth grade; or
- 3) is excused by the superintendent or a majority of the school directors as provided in this chapter, or
- 4) is enrolled in and attending a postsecondary school, as defined in subdivision 176(b)(1) of this title, which is approved or accredited in Vermont or another state.

Pupils over Sixteen.

16 V.S.A. § 1122

A person having the control of a child over sixteen years of age who allows such child to become enrolled in a public school, shall cause such child to attend such school continually for the full number of the school days of the term in which he is so enrolled, unless such child is mentally or physically unable to continue, or is excused in writing by the superintendent or a majority of the school directors. In case of such enrollment, such person, and the teacher, child, superintendent and school directors shall be under the laws and subject to the penalties relating to the attendance of children between the ages of seven and sixteen years.

COURSE OF STUDY

16 V.S.A. § 906

Under 16 V.S.A. Section 906, public schools, approved and recognized independent schools, and home study programs must provide a minimum course of study. For purposes of this title the minimum course of study means learning experiences adapted to a pupil's age and ability in the fields of:

- 1) Basic communication skills including reading, writing and use of numbers.
- 2) Citizenship, history and government in Vermont and the United States.

3) Physical Education and comprehensive health education including the effects of tobacco, alcoholic drinks, and drugs on the human system and on society. Subchapter 7, Comprehensive health education describes this course of study as a systematic and extensive elementary and secondary educational program designed to provide a variety of learning experiences based upon knowledge of the human organism as it functions within its environment. The term includes but is not limited to:

- A) Body structure and function including physical, psychosocial and psychological basis of human development, sexuality and reproduction;
 - B) Community health to include environmental health, pollution, public health, and world health;
 - C) Safety including first aid, disaster prevention and accident prevention;
 - D) Disease such as HIV infection, other sexually transmitted diseases, as well as other communicable diseases, and prevention or disease;
 - E) Family health and mental health, including instruction which promotes the development of responsible personal behavior involving decision making about sexual activity including abstinence, skills which strengthen existing family ties involving communication, cooperation and interaction between parents and students, and instruction to aid the establishment of strong family life in the future, thereby contributing to the enrichment of the community;
 - F) Personal health habits including dental health;
 - G) Consumer health including health careers, health costs and utilizing health services;
 - H) Human growth and development, including understanding the physical, emotional and social elements of individual development and interpersonal relationships including instruction in parenting methods and styles. This shall include information regarding the possible outcomes of premature sexual activity, contraceptives, adolescent pregnancy, child-birth, adoption, and abortion;
 - I) Drugs including education about alcohol, caffeine, nicotine and prescribed drugs; and
 - J) Nutrition.
- 4) English, American and other literature
 - 5) Natural sciences
 - 6) The fine arts

This minimum course of study should be described for each grade or level of instruction in the school as well as any adaptation necessary for creating a course of study that is age and ability appropriate.

CRIMINAL RECORDS CHECKS

16 V.S.A. § 251-260

§ 251. Policy

It is the policy of the state of Vermont to use criminal record checks to deter abuse and exploitation of school children and to do so in a manner that protects, as much as is practicable, the privacy of those subject to such checks. (Added 1997, No. 163 (Adj. Sess.), § 1.)

§ 252. Definitions

As used in this subchapter:

(1) "Criminal record" means the record of:

(A) convictions in Vermont; and

(B) convictions in other jurisdictions recorded in other state repositories or by the Federal Bureau of Investigation (FBI) for the following crimes or for crimes of an equivalent nature:

(i) Crimes listed in subdivision 5301(7) of Title 13.

(ii) Contributing to juvenile delinquency under section 1301 of Title 13.

(iii) Cruelty to children under section 1304 of Title 13.

(iv) Cruelty by person having custody under section 1305 of Title 13.

(v) Prohibited acts under sections 2632 and 2635 of Title 13.

(vi) Displaying obscene materials to minors under section 2804b of Title 13.

(vii) Sexual exploitation of children under chapter 64 of Title 13.

(viii) Drug sales, including selling or dispensing under sections 4230(b), 4231(b), 4232(b), 4233(b), 4234(b), 4235(c), 4235a(b), and 4237 of Title 18.

(ix) Sexual activity by a caregiver, under subsection 6913(d) of Title 33.

(2) "School board" means the board of school directors of a school district or its equivalent in any independent school.

(3) "School district" means, unless the context otherwise clearly requires, a school district or a supervisory union.

(4) "Unsupervised" means not in the presence of a responsible adult in the employ of or under the direction of the independent school or school district.

(5) "User agreement" means an agreement between the Vermont criminal information center and a party requesting and receiving criminal record information which requires the party to comply with all federal and state laws, rules, regulations and policies regulating the release of criminal

record information and the protection of individual privacy. (Added 1997, No. 163 (Adj. Sess.), § 1; amended 2005, No. 54, § 17.)

§ 253. Confidentiality of records

Criminal records and criminal record information received under this subchapter are designated confidential unless, under state or federal law or regulation, the record or information may be disclosed to specifically designated persons. (Added 1997, No. 163 (Adj. Sess.), § 1.)

§ 254. Educator licensure; employment of superintendents

- (a) The commissioner shall sign and keep a user agreement with the Vermont criminal information center.
- (b) The commissioner shall request and obtain from the Vermont criminal information center the criminal record for any person applying for an initial license as a professional educator or for any person who is offered a position as superintendent of schools in Vermont.
- (c) A request made under this section shall be accompanied by a release signed by the person on a form provided by the Vermont criminal information center, a set of the person's fingerprints, and a fee established by the Vermont criminal information center which shall reflect the cost of obtaining the record. The fee shall be paid by the applicant. The release form to be signed by the applicant shall include a statement informing the applicant of:
 - (1) the right to challenge the accuracy of the record by appealing to the Vermont criminal information center pursuant to rules adopted by the commissioner of public safety; and
 - (2) the commissioner's policy regarding maintenance and destruction of records and the person's right to request that the record or notice be maintained for purposes of using it to comply with future criminal record check requests made pursuant to section 256 of this title.
- (d) Upon completion of a criminal record check, the Vermont criminal information center shall send to the commissioner either a notice that no record exists or a copy of the record. If a copy of a criminal record is received, the commissioner shall forward it to the person and shall inform the person in writing of:
 - (1) the right to challenge the accuracy of the record by appealing to the Vermont criminal information center pursuant to rules adopted by the commissioner of public safety; and
 - (2) the commissioner's policy regarding maintenance and destruction of records and the person's right to request that the record or notice be maintained for purposes of using it to comply with future criminal record check requests made pursuant to section 256 of this title. (Added 1997, No. 163 (Adj. Sess.), § 1; amended 2005, No. 182 (Adj. Sess.), § 18.)

§ 255. Public and independent school employees; contractors

- (a) Superintendents, headmasters of recognized or approved Vermont independent schools and their contractors shall request criminal record information for the following:

(1) The person a superintendent or headmaster is prepared to recommend for any full-time, part-time or temporary employment.

(2) Any person directly under contract to an independent school or school district who may have unsupervised contact with school children.

(3) Any employee of a contractor under contract to an independent school or school district in a position that may result in unsupervised contact with school children.

(4) Any student working toward a degree in teaching who is a student teacher in a school within the superintendent's or headmaster's jurisdiction.

(b) After signing a user agreement, a superintendent or a headmaster shall make a request directly to the Vermont criminal information center. A contractor shall make a request through a superintendent or headmaster.

(c) A request made under this section shall be accompanied by a set of the person's fingerprints and a fee established by the Vermont criminal information center which shall reflect the cost of obtaining the record from the FBI. The fee shall be paid in accordance with adopted school board policy.

(d) Upon completion of a criminal record check, the Vermont criminal information center shall send to the superintendent or headmaster a notice that no record exists or, if a record exists:

(1) a copy of any criminal record for Vermont convictions, and

(2) if the requester is a superintendent, a notice of any criminal record which is located in either another state repository or FBI records, but not a record of the specific convictions except those relating to crimes of a sexual nature involving children.

(3) if the requester is a headmaster, a notice of any criminal record which is located in either another state repository or FBI records, but not a record of the specific convictions. However, if there is a record relating to any crimes of a sexual nature involving children, the Vermont criminal information center shall send this record to the commissioner who shall notify the headmaster in writing, with a copy to the person about whom the request was made, that the record includes one or more convictions for a crime of a sexual nature involving children.

(e) Information received by a superintendent or headmaster under subsection (d) of this section shall be forwarded as follows:

(1) In the case of a request other than one made on behalf of a contractor, the superintendent or headmaster shall forward a copy of the information to the person about whom the request was made.

(2) In the case of a request made on behalf of a contractor, the superintendent or headmaster shall inform the contractor in writing either that no record exists or that a record does exist but shall not reveal the content of the record to the contractor. The contractor shall then forward a copy of the information received to the person about whom the request was made.

(f) Information sent to a person by the commissioner, a headmaster, a superintendent or a contractor under subsections (d)(3) and (e) of this section shall be accompanied by a written notice of the person's rights under subsection (g) of this section, a description of the policy

regarding maintenance and destruction of records, and the person's right to request that the notice of no record or record be maintained for purposes of using it to comply with future criminal record check requests pursuant to section 256 of this title.

(g) Following notice that a record exists, a person may:

- (1) Sign a form authorizing the Vermont criminal information center to release a detailed copy of the criminal record to a superintendent or to the person.
- (2) Challenge the accuracy of the record by appealing to the Vermont criminal information center pursuant to rules adopted by the commissioner of public safety.

§ 256. Continued validity of criminal record check; maintenance of records

(a) Anyone required to request a criminal record check under this subchapter about a person who previously has undergone a check, regardless of whether the check was for student teaching, licensure or employment purposes, shall comply with that requirement by acquiring the results of the previous criminal record check unless:

- (1) the person refuses to authorize release of the information;
 - (2) the record no longer exists; or
 - (3) since the record check, there has been a period of one year or more during which the person has not worked for a Vermont school district or independent school.
- (b) A superintendent or headmaster who receives criminal record information under this subchapter shall maintain the record or information pursuant to the user agreement for maintenance of records. At the end of the time required by the user agreement for maintenance of the information, the superintendent or headmaster shall destroy the information in accordance with the user agreement unless the person authorizes maintenance of the record. If authorized by the person, the superintendent or headmaster shall:
- (1) if the information is a notice of no criminal record, securely maintain the information indefinitely; or
 - (2) if the information is a criminal record or notice of the existence of a criminal record, send it to the commissioner for secure maintenance in a central records repository.
- (c) Upon authorization by the person, the commissioner shall release information maintained in the central records repository to a requesting superintendent or, in the case of a requesting headmaster, to the person. The commissioner shall maintain the notice or record in the repository at least until the person ceases working for a Vermont school district or independent school for a period of one year or more or until the person requests that the record be destroyed.

(3) § 257. Fees for fingerprinting; fingerprint fee special fund

State, county and municipal law enforcement agencies may charge a fee of up to \$15.00 for providing applicants or other individuals with a set of classifiable fingerprints as required by this subchapter. No fee shall be charged to retake fingerprints determined by the Vermont criminal information center not to be classifiable. Fees collected by the state of Vermont under this

section shall be credited to the fingerprint fee special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the department of public safety to offset the costs of providing these services. (Added 1997, No. 163 (Adj. Sess.), § 1.)

Decline or resign employment. (Added 1997, No. 163 (Adj. Sess.), § 1.)

§ 258. Notice; license applications; job applications; employees

(a) Each application for an initial teaching license shall contain a statement that the applicant will be required to undergo a criminal record check, including an FBI fingerprint record check, and that receipt of the license may be dependent upon the results of the check.

(b) Each job application provided by a school district or independent school shall contain a statement that, if the superintendent or headmaster is prepared to recommend the person for a job, the applicant will be required to undergo a criminal record check, including an FBI fingerprint record check, and that employment may be dependent upon the results of the check. (Added 1997, No. 163 (Adj. Sess.), § 1.)

§ 259. Penalties; remedy

(a) A person who, without authorization, discloses criminal record check information received under this subchapter shall be fined not more than \$2,000.00. Each unauthorized disclosure shall constitute a separate violation.

(b) A person who suffers damages as a result of willful unauthorized disclosure of criminal record check information received under this subchapter may recover those damages together with reasonable attorney's fees in a civil action.

(c) In addition to any other penalties described in this section, the commissioner may initiate a review of the professional licensure of any person who willfully discloses criminal record check information received under this subchapter. (Added 1997, No. 163 (Adj. Sess.), § 1.)

§ 260. School board policies

Each school board shall, by July 1, 1999, adopt a policy on supervision of volunteers and work study students. (Added 1997, No. 163 (Adj. Sess.), § 1.)

DISCIPLINE

16 V.S.A. § 1161a

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youth. The plan shall include:

- (1) the school's approach to classroom management and response to disruptive behavior, including the use of alternative educational settings;
- (2) the manner in which the school will provide information and training to students in methods of conflict resolution, peer mediation and anger management;

- (3) procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior;
 - (4) the school's response to significant disruptions, such as threats or use of bombs or weapons;
 - (5) a description of how the school will ensure that all staff and contractors who routinely have unsupervised contact with students periodically receive training on the maintenance of a safe, orderly, civil and positive learning environment. The training shall be appropriate to the role of the staff member being trained and shall teach classroom and behavior management, enforcement of the school's discipline policies and positive youth development models;
 - (6) a description of behaviors on and off school grounds which constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors which may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title which, although serious, does not rise to the level of harassment or bullying as those terms are defined therein; and
 - (7) standard due process procedures for suspension and expulsion of a student.
- (b) For the purpose of this chapter, corporal punishment means the intentional infliction of physical pain upon the body of a pupil as a disciplinary measure.
- (c) No person employed by or agent of a public or approved school shall inflict or cause to be inflicted corporal punishment upon a pupil attending the school or the institution. However, this section does not prohibit a person from using reasonable and necessary force:
- (1) to quell a disturbance;
 - (2) to obtain possession of weapons or other dangerous objects upon the person of or within the control of a pupil;
 - (3) for the purpose of self defense; or
 - (4) for the protection of persons or property.

DRIVER TRAINING COURSE

16 V.S.A. § 1045

- (a) A driver education and training course, approved by the department of education and the department of motor vehicles shall be made available to pupils whose parent or guardian is a resident of Vermont and who have reached their fifteenth birthday and who are regularly enrolled in a public or independent high school approved by the state board.
- (b) After June 30, 1984, all driver education courses shall include a course of instruction, approved by the state board and the council on the effects of alcohol and drugs on driving.

- (c) All driver education courses shall include instruction on motor vehicle liability insurance and the motor vehicle financial responsibility laws of the state.

Arrangement; date
16 V.S.A. § 1046

Subject to the approval of the commissioner each superintendent of schools shall arrange for establishment of a driver education and training course for all public and approved independent schools located within his or her supervisory jurisdiction that so request.

EDUCATIONAL OCCUPANCIES

National Fire Prevention Association
Standard 101 - Life Safety Code

CHAPTER 10 NEW EDUCATIONAL OCCUPANCIES

- 10-2.1.2 Rooms normally occupied by preschool, kindergarten, or first-grade pupils shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade pupils shall not be located more than one story above the level of exit discharge.

CHAPTER 11 EXISTING EDUCATIONAL OCCUPANCIES

- 11-2.1.2 Rooms normally occupied by preschool, kindergarten, or first-grade pupils shall not be located above or below the story of exit discharge. Rooms normally occupied by second grade pupils shall not be located more than one story above the story of exit discharge.

FALSE ADVERTISING
13 V.S.A. § 2005

A person, firm, corporation or association, or an agent or employee thereof, who, with intent to sell courses of instruction or to dispose of merchandise, real estate, securities or service or to induce the public to enter into any obligations relating thereto, shall knowingly make, publish, circulate or place before the public on radio or television or in a newspaper, magazine or other publication or in form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, an advertisement or statement regarding educational advantages, merchandise, real estate, securities or service, which advertisement or statement shall contain anything untrue, deceptive or misleading, shall be fined not more than \$1,000.00. - Amended 1967

GUN-FREE SCHOOLS ACT
Possession of a weapon at school
16 V.S.A. § 1166

- (a) In this section, the terms “to school” and “firearm” shall have the same meaning that the terms have in 18 U.S.C. § 921. However, the school board may expand the definitions provided they remain consistent with federal law.
- (b) Each school board shall adopt and implement policies regarding a student who brings a weapon to school which at a minimum shall include:
 - (1) A provision that any student who brings a weapon to school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the department of social and rehabilitation services.
 - (2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a weapon to school. However, the school board may modify the expulsion on a case by case basis. Modifications may be granted in circumstances such as but not limited to:
 - (A) The pupil is unaware that he or she has brought a weapon to school.
 - (B) The pupil did not intend to use the weapon to threaten or endanger others.
 - (C) The pupil is disabled and the misconduct is related to the disability.
 - (D) The pupil does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the pupil.
- (c) Annually at a time and on a form determined by the commissioner, each superintendent shall provide the commissioner with a description of the circumstances surrounding expulsions imposed under this section, the number of students expelled and the type of weapons involved.
-----Added 1995, No.35.

Memo from Janice E. Jackson, Acting Assistant Secretary
United States Department of Education
October 31, 1995

Question: Are private schools subject to the requirements of the Gun-Free Schools Act?

Answer: Private schools are not subject to the provisions of the GFSA, but private school students who participate in LEA programs or activities are subject to the one-year expulsion requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA’s programs. For example, a private school student who is

enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing similar expulsions from the private school on a student who brings a weapon to school.

HARASSMENT

Definition

16 V.S.A. § 11(26)

- (26)(A) "Harassment" means an incident or incidents of verbal, written, visual, or physical conduct based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.
- (B) "Harassment" includes conduct which violates subdivision (26)(A) of this subdivision and constitutes one or more of the following:
- (I) Sexual harassment, which means conduct that includes unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature when one or both of the following occur:
 - (I) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.
 - (II) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.
 - (ii) Racial harassment, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color, and includes the use of epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, and taunts on manner of speech and negative references to racial customs.
 - (iii) Harassment of members of other protected categories, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived creed, national origin, marital status, sex, sexual orientation, gender identity, or disability and includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, taunts on manner of speech, and negative references to customs related to any of these protected categories.

HAZING
Definition
16 V.S.A. § 140b

§ 140b. Unlawful conduct

- (a) For purposes of this subchapter, "hazing" means any intentional, knowing or reckless act committed by a student, whether individually or in concert with others, against another student:
 - (1) in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with the educational institution; and
 - (2) which is intended to have the effect of, or should reasonably be expected to have the effect of, endangering the mental or physical health of the student.
- (b) Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:
 - (1) the goals are approved by the educational institution; and
 - (2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.
- (c) It shall be unlawful to:
 - (1) engage in hazing;
 - (2) solicit, direct, aid, or attempt to aid, or abet another person engaged in hazing; or
 - (3) knowingly fail to take reasonable measures within the scope of the person's authority to prevent hazing.
- (d) It is not a defense in an action under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity. (Added 1999, No. 120 (Adj. Sess.), § 9.)

Approved and Recognized Independent Schools
16 V.S.A. § 166(e)

The board of trustees of an independent school operating in Vermont shall adopt harassment and hazing prevention policies, establish procedures for dealing with harassment and hazing of students and provide notice of these. The provisions of section 565 of this title for public schools shall apply to this subsection, except that the board shall follow its own procedures for adopting policy. -- Amended 1999, Adj.Sess. (e)

Harassment and hazing prevention policies
16 V.S.A. §565

§ 565. Harassment and hazing prevention policies

- (a) It is the policy of the state of Vermont that all Vermont educational institutions provide safe, orderly, civil and positive learning environments. Harassment, hazing and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.
- (b) Each school board shall develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title harassment and hazing prevention policies which shall be at least as stringent as model policies developed by the commissioner. In this section, the definitions of educational institution, organization, pledging, and student shall be the same as those in section 140a of this title.
- (1) The harassment prevention policy shall include:
- (A) A statement prohibiting harassment of a student.
 - (B) The definition of harassment pursuant to subdivision 11(a)(26) of this title.
 - (C) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.
 - (D) A procedure that directs students and staff how to report violations and file complaints.
 - (E) A procedure for investigating reports of violations and complaints. The procedure shall provide that, unless special circumstances are present and documented by the school officials, an investigation is initiated no later than one school day from the filing of a complaint and the investigation and determination by school officials are concluded no later than five school days from the filing of the complaint with a person designated to receive complaints under subdivision (c)(1) of this section. All internal reviews of the school's initial determination, including the issuance of a final decision, shall, unless special circumstances are present and documented by the school officials, be completed within 30 days after the review is requested.
 - (F) A description of how the board will ensure that teachers and other staff members receive training in preventing, recognizing and responding to harassment.
- (2) The hazing prevention policy shall include:
- (A) A statement that hazing, as defined in subdivision 11(a)(30) of this title, is prohibited.

- (B) A procedure that directs students and staff how to report violations and file complaints.
 - (C) A procedure for investigating reports of violations and complaints.
 - (D) Circumstances under which hazing may be reported to a law enforcement agency.
 - (E) Appropriate penalties or sanctions, or both, for organizations which or individuals who engage in hazing, and revocation or suspension of an organization's permission to operate or exist within the institution's purview, if that organization knowingly permits, authorizes, or condones hazing.
 - (F) A description of how the board will ensure that teachers and other staff members receive training in preventing, recognizing and responding to hazing.
- (c) Each school district shall establish rules setting forth procedures for dealing with harassment and hazing of students which include:
- (1) Annual designation of two or more people within the institution to receive complaints and a procedure for publicizing those people's availability.
 - (2) A procedure for publicizing the availability of the Vermont human rights commission and the federal Department of Education's Office of Civil Rights and other appropriate state and federal agencies to receive complaints of harassment.
 - (3) A statement that acts of retaliation for reporting of harassment or for cooperating in an investigation of harassment is unlawful pursuant to subdivision 4503(a)(5) of Title 9.
- (d) Annually, prior to the commencement of curricular and co-curricular activities, the school board shall provide notice of the policy and procedures developed under this section to students, custodial parents or guardians of students, and staff members. Notice to students shall be in age-appropriate language and should include examples of harassment and hazing. At a minimum, this notice shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for the school. The board shall use its discretion in developing and initiating age-appropriate programs to effectively inform students about the substance of the policy and procedures in order to help prevent harassment, and hazing.
- (e) The commissioner shall develop and, from time to time, update model harassment and hazing prevention policies.
- (f) Independent review.
- (1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred, or believes that although a final determination was made that

harassment occurred, the school's response was inadequate to correct the problem, shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the commissioner of education and the human rights commission and maintained by the commissioner. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

- (2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.
- (3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.
- (4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.
- (5) The costs of the independent review shall be borne by the independent school or school board.
- (6) Nothing in this subsection shall prohibit the school district from requesting an independent review at any stage of the process.
- (7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.
- (8) The commissioner may adopt rules implementing this subsection.

HEALTH, SAFETY AND ENVIRONMENTAL REGULATIONS

Public and independent schools are subject to the same health and safety standards. Information regarding these standards is available from the appropriate state agencies. There are three agencies that govern the areas of health, safety and environmental requirements for school houses. The addresses are listed as follows:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 1. Department of Environmental Conservation
Protection Divisions
103 South Main Street
Waterbury, Vermont 05671
(802) 241-3808 | 2. Division of Fire Safety
1311 U.S. Route 302-Berlin
Suite 600
Barre, VT 05641
(802) 479-7561 |
| 3. Department of Health
General Information
108 Cherry Street
Burlington, Vermont 05401
1-800-464-4343 | |

The Department of Health is responsible for those aspects of water quality that affect drinking water. They can also assist in other health related requirements such as immunization.

Other State Agencies - for technical assistance:

Accountability and School Improvement Team Department of Education 120 State Street Montpelier, Vermont 05620 (802) 828-5404	Department of Historic Preservation National Life Building, 6 th Floor Montpelier, Vermont 05602 (802) 828-3211
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For information on hazardous materials management in schools, contact:

Association of Vermont Recyclers
P.O. Box 1244
Montpelier, Vermont 05602
(802) 229-1833

To see if there are any regulations regarding schools that you should be aware of, before opening or constructing your school, the Department of Education also recommends that the schools contact their local agencies like the Town or City Clerk or the Board of Selectmen for further possible mandates.

There may be local zoning and building code regulations to be satisfied, depending upon the community in which the school is located.

State of Vermont Fire Prevention Offices**Central Office, 1311 US Route 302-Berlin, Suite 600, Barre, Vermont 05641 - 802-479-7562**

John Wood, Vermont Director of Fire Safety	479-7561
Donna Green , Administrative Assistant	479-7563
Robert Howe , Chief Fire Prevention Officer, Asst. State Fire Marshal for all Districts	479-7566
Bridgette Hebert, Licensing Secretary (Electrical, Plumbing & TQP's)	479-7564

Chris Herrick, Chief, Vermont Hazardous Materials Response Team, Barre Regional Office	479-7586
Richard Schlieder, Chief of Licensing & Special Inspections, Springfield Regional Office	885-
8970	
Gerald "G.J." Garrow, Plumbing Inspections for all Districts, Rutland Regional Office	786-5841

Barre Regional Office, 5 Perry Street, Suite 200, Barre, Vermont 05641 – 802-479-4446

Mike Desrochers, Regional Manager	479-7572
Roberta Chatot, Assistant	479-7570
Wesley, Crider, Boiler Inspector	479-7573
Wayne Dunlap, Electrical Inspector	479-7574
Joe Rutledge, Electrical Inspector	479-7576
Stan Baranowski, Assistant State Fire Marshal	479-7575
Paul Cerutti, Assistant State Fire Marshal	479-7579
Brad Charron, Assistant State Fire Marshal	479-7577
Bob Mackin, Assistant State Fire Marshal	479-7580
Ken Pease, Assistant State Fire Marshal	479-7581

Rutland Regional Office, 430 Asa Bloomer Office Building, Rutland, VT 05701 - 802-786-5872

Butch Sutherland, Regional Manager	786-0073
Christine Tuzzo, Assistant	786-0078
Steve Rorison, Electrical Inspector	786-0071
Peter Olney, Electrical Inspector	786-0072
Frank Cioffi, Assistant State Fire Marshal	786-5868
Bill States, Assistant State Fire Marshal	786-5869
Michael Skaza, Assistant State Fire Marshal	786-0075
Fran Robillard, Assistant State Fire Marshal	786-0074

Springfield Regional Office, 100 Mineral Street, Suite 307, Springfield, VT 05156-3168 – 802-885-8885

Bruce Martin, Regional Manager	885-8967
Debbie Moulton , Regional Assistant	885-8883
Dave LaPlante, Electrical Inspector	885-8966
Dave Luce, Electrical Inspector	885-8965
James Kerston, Assistant State Fire Marshal	885-8964
Scott Adnams, Assistant State Fire Marshal	885-8968
Brian Johnson, Assistant State Fire Marshal	885-8971

Williston Regional Office 372 Hurricane Lane, Suite 102, Williston, VT 05495-2080 – 802-879-2312

Robert Patterson, Regional Manager	879-2302
Jackie Connaway, Regional Assistant	879-2301
Malcolm Wheel, Boiler Inspector	879-2304
Monte Mason, Electrical Inspector	879-2309
Dick McGrath, Electrical Inspector	879-2307
Joe Benard, Assistant State Fire Marshal	879-2310
Chris Boyd, Assistant State Fire Marshal	879-2306
Michael Greenia, Assistant State Fire Marshal	879-2305
John Vergin, Assistant State Fire Marshal	879-2303

IMMUNIZATIONS

Required Prior to Attending School

- (a) No person may enroll as a student in a Vermont school, regardless of whether the student has been enrolled in the school during a previous school year, unless the appropriate school official has received a record or certificate of immunization issued by a licensed health care practitioner or a health clinic that the person has received required immunizations appropriate to age as specified by the Vermont department of health.
- (b) No person may enroll or retain a child in a child care facility, regardless of whether the child has been enrolled in the facility during a previous year, unless the facility has received a record or certificate of immunization issued by a licensed health care practitioner or a health clinic that the child has received required immunizations in the prior 12-month period appropriate to age as specified by the Vermont department of health.

Exemptions

18 V.S.A. §1122

- (a) A person may remain in school or in the child care facility without a required immunization:
 - (1) If the person, or in the case of a minor the person's parent or guardian presents a written statement from a licensed health care practitioner, health clinic, or nurse that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as the immunization process is being accomplished;
 - (2) If a health care practitioner, licensed to practice in Vermont, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate;
 - (3) If the person, or in the case of a minor the person's parent or guardian states in writing that the person, parent, or guardian has religious beliefs or philosophical convictions opposed to immunization.
- (b) The Health Department may provide by rule for further exemptions to immunization based upon sound medical practice.

Noncompliance

18 V.S.A. § 1126

The school board of each district, or the board of trustees of each independent school, or the chief executive officer of each postsecondary school, or the director of each child care facility shall exclude from school or a child care facility any person not otherwise exempted under this subchapter who fails to comply with its provisions. No person shall be excluded for failure to comply with the provisions of this subchapter unless there has been a notification by the appropriate school or child care facility authority to the person, or in the case of a minor to the person's parent or guardian of the noncompliance with this subsection, and of their rights under section 1122 of this title. In the event of exclusion, school officials or the director of the child care facility shall notify the department of health and contact the parents or guardians in an effort to secure compliance with the requirements of this subchapter so that the person may attend school or the child care facility.

2300 LENGTH OF SCHOOL DAY AND YEAR 2/9/06

Specific Program Requirements for Public Schools

2310 Length of School Day and Year

2311 School Year. Each public school shall be maintained and operated for 175 student days unless waivers are granted by the Board as provided by 16 VSA §1071.

2311.1 Days lost because schools are closed for emergency reasons prior to February 1 of any year shall be rescheduled and made up during that school year when such closing will result in a schedule of less than 175 pupil attendance days for the year.

2311.2 Petitions for waivers of the 175 student attendance days shall be submitted to the Commissioner's office within 10 days as stipulated by law.

2311.3 Petitions received between February 1 and June 15 will be considered on a case-by-case basis. When a petition is sought for emergency reasons, the State Board will consider the school district's calendar to substantial number of contingency days were included, particularly if the cause is inclement weather conditions.

2311.4 School districts shall include no fewer than five contingency days as annual school calendars are developed and adopted.

2311.5 Day of Mourning. Whenever a National Day of Mourning falls on a regularly scheduled school day, the day shall be counted as a full day of school.

2312 Length of School Day

2312.1 Except as provided in Rule 2311.5, the school day shall be:

- (a) for kindergarten, a minimum of two instructional hours. However, in any calendar week, five school days may be counted if the total number of hours of instructional time is equal to or exceeds 10 hours per week.
- (b) for grades 1-2, a minimum of four instructional hours including recess, excluding lunch. However, in any calendar week, five school days may be counted if the total number of hours of instructional time is equal to or exceeds 20 hours, including recess, excluding lunch.

- (c) for grades 3-8, a minimum of 5 ½ instructional hours, including recess, excluding lunch. However, in any calendar week, five school days may be counted if the total number of hours of instructional time is equal to or exceeds 27 ½ hours, exclusive of the time allowed for recess and lunch.
- (d) for grades 9-12, a minimum of 5 ½ instructional hours, exclusive of the time allowed for recess and lunch. However, in any calendar week, five school days may be counted if the total number of hours of instructional time is equal to or exceeds 27 ½ hours, exclusive of the time allowed for recess and lunch.

2312.2 Exceptions to Length of School Day

- (a) Where the board of school directors has found it necessary to delay the opening of the school day by up to two hours or to send the pupils home after school has begun due to emergencies such as the outbreak of a contagious disease, unsafe building conditions, hazardous weather, high water, unsafe highways, or a fire, the day may be counted as a full day of school.
- (b) Upon request of the board of school directors, the Commissioner may permit alternate methods of counting the cumulative instructional hours set forth in subsection 2311.4 of this section where:
 - (1) overall, students do not lose instructional time;
 - (2) students do not lose transportation to and from school or to other educational programs during the school day;
 - (3) students do not lose access to related education programs such as technical or special education; and
 - (4) it is otherwise in the interests of the students and the district.

FIRE DRILLS **16 V.S.A. 33 §1481-1483**

§ 1481. Fire and emergency preparedness drills

- (a) The principal or person in charge of a public or independent school or educational institution, other than a university or college, shall drill the pupils so that they may be able to leave the school building or perform other procedures described in the school's emergency preparedness plan, or both in the shortest possible time and without panic or confusion.
- (b) A drill shall be held at least once in each month during the school year and a record of the date and time of such drill together with the time consumed in completing the procedure, shall be kept in the official school register, and such register shall be open at all times for inspection by

representatives from the fire safety division of the department of public safety or the department of education.

(c) A school district, independent school, or educational institution whose administrative personnel neglect to comply with the provisions of this section shall be fined not more than \$500.00. (Amended 1973, No. 214 (Adj. Sess.), § 5; 1991, No. 24, § 11; 2003, No. 16, § 2; 2003, No. 141 (Adj. Sess.), § 1, eff. April 1, 2005.)

§ 1482. Safety patrols

(a) In the exercise of authorized control and supervision over pupils attending schools and other educational institutions in this state, both public and independent, the board of school directors or other directing authority of any such school or institution may organize and supervise school safety patrols and the appointment, with the permission of parents, of pupils as members thereof, for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than at regular crossings, and for the purpose of directing pupils not to cross highways at times when the presence of traffic would render such crossing unsafe.

(b) Such board of school directors or other directing authority shall obtain and keep in force adequate accident insurance to protect pupils acting as safety patrols during the performance of their services.

(c) The commissioner of public safety shall, upon the request of a board of school directors or other directing authority of any public or independent educational institution, assign an officer or officers of the state police to assist such school authorities in the organization and supervision of school safety patrols, advise and make recommendations concerning the elimination of traffic hazards endangering the safety of school children, and otherwise assist in promoting safety education in the schools of the state. Within the appropriation of his department, the commissioner of public safety shall furnish such equipment, material and supplies as he may deem necessary for the proper functioning of the school safety patrols. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic.

(d) Liability shall not attach either to the school, educational institution, governing board or any individual director, trustee, superintendent, teacher, or other school authority, parent or any sponsor, sponsoring organization or representative thereof, or to the department of public safety or to any individual member thereof, by virtue of the organization, maintenance or operation of such a school safety patrol and school safety patrol field day activity organized, maintained and operated under the authority of this section because of injuries sustained by any pupil or person, whether a member of the patrol or otherwise, by reason of the operation and maintenance thereof. (Amended 1991, No. 24, § 11.)

§ 1483. Chapter printed in manuals or handbooks

This chapter shall be printed in such manuals or handbooks as may be prepared for the guidance of teachers in a school or institution subject to the provisions thereof. Amended 1977, No. 33, §4.

SCHOOL BUS DEFINED

23 V.S.A. 4 (34)

34)(A) "School bus" means any motor vehicle used to transport children to or from school or in connection with school activities, except:

- (i) buses operated by common carriers who incidentally accept school children as passengers;
- (ii) private motor vehicles used to carry members of the owner's household. For the purposes of this section, private motor vehicle means a vehicle neither owned nor leased by a public school or an approved independent school;
- (iii) private motor vehicles used to transport children without compensation. For the purposes of this section, compensation means payment in any form except reimbursement for mileage or the normal salary paid to a person otherwise employed by the school;
- (iv) motor vehicles with a manufacturer's rated seating capacity of fewer than 11 persons, including the operator, which are owned, leased, or hired by a school, or for which services are reimbursed by a school. However, if used to transport students, these shall be considered a Type II school bus for purposes of licensure, shall display an identification sign as prescribed in subdivision 1283(a)(1) of this title, and shall be equipped with a simple system of at least two red alternating warning lights; unless the driver is a school employee or a volunteer subject to a criminal background check and is transporting no more than five persons excluding the operator; provided that the vehicle has safety belts for all persons being transported;
- (v) motor coaches provided with a driver to a school on a single-trip or multi-trip contract basis to provide transportation to or from, or to and from, athletic or other special events. A motor coach is a vehicle at least 35 feet in length with a manufacturer's rated seating capacity of more than 30 passengers and is designed for long distance transportation of passengers, characterized by integral construction with an elevated passenger deck located over a baggage compartment. Pursuant to 16 V.S.A. § 255, a superintendent or headmaster shall request criminal record information for a driver of a motor coach if the driver may be in unsupervised contact with schoolchildren;
- (vi) multifunction school activity buses, as defined in section 1287 of this title, provided with a driver to a school on a single-trip or multi-trip contract basis to provide transportation to or from, or to and from, athletic or other special events. Pursuant to 16 V.S.A. § 255, a superintendent or headmaster shall request criminal record information for a driver of a multifunction school activity bus if the driver may be in unsupervised contact with schoolchildren;

- (vii) other multifunction school activity buses as defined in section 1287 of this title.
- (B) "Type I school bus" means a school bus with a manufacturer's rated seating capacity of more than 15 passengers, including the operator.
- (C) "Type II school bus" means a school bus with a manufacturer's rated seating capacity of more than 10 and fewer than 16 passengers, including the operator.

QUALIFICATIONS OF SCHOOL BUS DRIVERS

23 V.S.A. §1282 (a)

§ 1282. Operator, equipment and inspection

- (a) Before a person may assume the duty of transporting school pupils in either a Type I or Type II school bus, he or she shall as a minimum:
 - (1) For Type I, have a valid state of Vermont commercial driver license with a passenger endorsement and a school bus driver's endorsement or, for Type II, have a valid state of Vermont license with a school bus driver's endorsement or have a license from another jurisdiction valid for the class or type of vehicle to be driven;
 - (2) Furnish the department of motor vehicles or in the case of a person licensed in another jurisdiction furnish his or her employer a certificate signed by a licensed physician, or a certified physician's assistant or a nurse practitioner in accordance with written protocols, that he or she is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties. Any newly diagnosed diabetic or established diabetic must be stabilized and must be certified by his or her personal physician that he or she has not had a hypoglycemic reaction (loss of consciousness or near loss of consciousness) for the last two years or since his or her last physical, whichever is longer. Any diabetic must be recertified every six months by his or her personal physician who must state that the patient has not had a hypoglycemic reaction during that time;
 - (3) Have completed training in school bus operation, including evacuation and emergency procedures, as the commissioner deems necessary;
 - (4) Be licensed for Type I or Type II or both, Type I being an automatic qualification for a Type II operator;
 - (5) Furnish to his or her employer prior to the first date of employment as a school bus driver, a copy of his or her three-year operating record.
- (b) A school bus shall not be operated in the transportation of children to and from school unless and until it is inspected at an inspection station designated as such by the motor vehicle department. The inspection shall thoroughly cover mechanical conditions, standard equipment, extra equipment and safety and comfort conditions all as provided in section 1281

of this title; and, if the inspected vehicle meets all of these requirements, the inspection station shall give the owner or operator of the inspected vehicle a signed certificate so stating. This certificate shall be shown as soon as possible by the owner or operator to a school director in the town in which this vehicle is to be operated, and shall thereafter be carried in some easily accessible place in the vehicle. Thereafter, so long as this bus remains in this service, it must be reinspected as provided in this section during each of the following periods: July-August, November-December, and February-March. School buses of the pleasure car type, if regularly used in this service, shall display signs required in subdivision 1281(9) of this title when transporting schoolchildren.

- (c)(1) A school bus shall not regularly transport more passengers than seating space of 13 inches for each child will permit.
- (2) Bus routing and seating plans shall be coordinated so as to eliminate standees when a school bus is in motion, and standees shall be permitted only in emergency situations.
- (3) There shall be no auxiliary seating accommodations such as temporary or folding jump seats in school buses.
- (d)(1) A person licensed by the department of motor vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall annually before the commencement of the school year furnish his or her employer, where he or she is employed as a school bus driver, the following:
 - (A) a certificate signed by a licensed physician, or a certified physician's assistant or a nurse practitioner in accordance with written protocols, certifying that he or she is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties, and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the commissioner; and
 - (B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying that he or she meets or exceeds the minimum vision standards as prescribed by the commissioner.
- (2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or does not meet the minimum hearing or vision standards, the employer shall immediately notify the commissioner.
- (e) In the event the school bus driver is subject to 49 C.F.R. part 391, subpart E, the provisions of those regulations rather than the standards of this section shall apply.
- (f) Subject to state board of education rules, which may provide for limited idling, the operator of a school bus shall not idle the engine while waiting for children to board or to exit the vehicle at a school and shall not start the engine until ready to leave the school premises. The board, in consultation with the agency of natural resources, the department of health, and the department of motor vehicles, shall adopt rules to implement this subsection. The rules shall

set forth periods or circumstances that reasonably require the idling of the engine, including periods when it is necessary to operate defrosting, heating, or cooling equipment to ensure the health or safety of the driver or passengers or to operate auxiliary equipment; and periods when the engine is undergoing maintenance or inspection. (Amended 1961, No. 137, § 2; 1971, No. 228 (Adj. Sess.), § 32; 1975, No. 149 (Adj. Sess.), §§ 6, 7; 1985, No. 119 (Adj. Sess.); 1987, No. 209 (Adj. Sess.), §§ 1, 2; 1989, No. 33, §1; 1989, No. 127 (Adj. Sess.), § 5, eff. March 15, 1990; No. 239 (Adj. Sess.), §§ 4, 5; 2003, No. 160 (Adj. Sess.), § 39, eff. June 9, 2004; 2007, No. 48, § 1, eff. May 25, 2007.)

For all school bus driver training endorsement and licensing issues, contact:

Marty Dexter
Vermont Department of Motor Vehicles
Education & Safety Unit
120 State Street
Montpelier, Vermont 05603
802-828-2114
marty.dexter@state.vt.us

For all other school bus, pupil transportation inquires from the general public, contact:

Paul Graves
Education & Safety Team Leader
Vermont Department of Motor Vehicles
120 State Street
Montpelier, Vermont 05603
802-828-2068
paul.graves@state.vt.us

SPECIAL EDUCATION

State Board

Rules #:

2363.11 IEP requirements for placements by school districts in independent schools or tutorial programs

- (a) Before a school district places a student eligible for special education services in, or refers a student to, an independent school, or a tutorial program, the school district shall initiate and conduct a meeting to develop an IEP for the student that reflects the change in placement.
- (b) The school district's placement shall be at no cost to the parents and the independent school or tutorial program shall provide an education that meets the standards that apply to education provided by the local school district.
 - (1) Placements by school districts in independent schools shall be in schools that have been approved according to Rule 2228.
 - (2) Placements by school districts in tutorial programs shall be in programs that have been approved according to Rule 2230.
- (c) The school district shall ensure that a representative of the independent school or tutorial program either attends the meeting or is able to participate by other methods including individual or conference telephone calls.
- (d) After a child with a disability enters an independent school or a tutorial program, any meetings to review and revise the student's IEP may be initiated and conducted by the school or tutorial program in accordance with the written agreement as entered into in conformance with Rule 2228.4.2. If the independent school or tutorial program initiates and conducts these meetings, the school district shall ensure, to the extent required by Rule 2363.5, that an LEA representative is involved in any decision about the student's IEP and agrees to any proposed changes in the IEP before those changes are implemented. Parent attendance shall be required and documented as set forth in Rule 2363.5.
- (e) When an independent school or a tutorial program implements a student's IEP, responsibility for compliance with the special education regulations with respect to that student remains with the school district.
- (f) A child placed in an independent school or a tutorial program by a school district shall retain all of the rights of a child on an IEP who is attending a public school.

2368 Children with Disabilities Enrollment by Their Parents in Independent Schools and in Home Study

2368.1 Independent School Placements

This section applies to children who are enrolled by their parents in kindergarten through grade twelve in recognized or approved independent schools, including religious, elementary and secondary schools. This section does not apply to children who are either:

- (a) Placed in independent schools by the school district based on an IEP team's determination that the independent school, rather than the district's school, is the appropriate placement and least restrictive environment for the child, or
- (b) Attend a private school because the school district does not maintain a public school.

2368.1.1 Child-Find

- (a) Each supervisory union shall locate, identify, and evaluate all independent school children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the supervisory union.
- (b) Child find design. The supervisory union's child find process shall be designed to ensure—
 - (1) The equitable participation of parentally-placed children in independent schools and home schools; and
 - (2) An accurate count of those children.
- (c) Activities. In carrying out the requirements of this section, the district shall undertake activities similar to the activities undertaken for the supervisory union's public school children.
- (d) Cost. The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if the district has met its proportionate share expenditures obligation.
- (e) Completion period. The child find process shall be completed in a time period comparable to that for other students attending public schools in the supervisory including completion of the initial evaluations within a 60 day time period, consistent with the evaluation process described in Rules 2362.2.3(b), 2362.2.4, and 2362.2.5.

2368.1.2 Child-Count

(a) Each supervisory union shall—

- (1) Conduct the consultation required by Rule 2368.1.5.1; and
 - (2) Ensure that the count is conducted on December 1 of each year.
- (b) The child count shall be used to determine the amount that the supervisory union shall spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.
- (c) Supplement, not supplant. Local funds may supplement and in no case supplant the proportionate amount of IDEA-B flow through funds required to be expended for children who are eligible for special education who have been placed by their parents in independent schools.

2368.1.3 Proportionate Share of IDEA-B Funds

The child count shall be used to determine the amount of IDEA-B flow-through funds that the school district shall spend on providing special education and related services to parentally-placed independent school children with disabilities in the next fiscal year.

- (a) Formula. Each supervisory union shall spend the following on providing special education and related services (including direct services) to parentally-placed independent school children with disabilities:
- (1) For children aged 3 through 21, an amount that is the same proportion of the supervisory union's allocation for the next fiscal year of Federal IDEA-B Basic flow-through funds as the number of independent school children eligible for special education aged 3 through 21 who are enrolled by their parents in independent, including religious, elementary and secondary schools located in the supervisory union is to the total number of children eligible for special education in its jurisdiction aged 3 through 21.
 - (2) For children aged 3-5, an amount that is the same proportion of the supervisory union's allocation for the next fiscal year of Federal IDEA-B Preschool flow-through funds as the number of parentally-placed independent school children eligible for special education aged 3 through 5 who are enrolled by their parents in independent, including religious, elementary and secondary schools located in the supervisory union is to the total number of children eligible for special education in its jurisdiction aged 3 through 5.
- (b) Calculating proportionate amount. In calculating the proportionate amount of Federal flow-through IDEA-B funds to be provided for parentally-placed independent school children with disabilities, the supervisory union, after timely and meaningful consultation with

representatives of independent schools, shall conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending independent schools located in the supervisory union.

2368.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools

No parentally-placed child has an entitlement to a FAPE in an independent school

- (a) Where services are provided, they shall be provided at the discretion of the school district in which the independent school is located.
- (b) The school district of the parent's residence shall offer to make a FAPE available in the event the child's parent seeks enrollment in public school. Additionally, the school district of residence shall be prepared to develop an IEP for such eligible child if he or she enrolls in public school.

2368.1.5 Services Determined

2368.1.5.1 Consultation

To ensure timely and meaningful consultation, a supervisory union representative shall consult with independent school representatives and representatives of parents of parentally-placed independent school children with disabilities during the design and development of special education and related services for the children regarding the following:

- (a) Child find. The child find process, including—
 - (1) How parentally-placed independent school children suspected of having a disability can participate equitably; and
 - (2) How parents, teachers, and private school officials will be informed of the process.
- (b) Proportionate share of funds. The determination of the proportionate share of federal funds available to serve parentally-placed independent school children with disabilities under Rule 2368.1.3(b), including the determination of how the proportionate share of those funds was calculated.
- (c) Consultation process. The consultation process among the supervisory union representative, independent school officials, and representatives of parents of parentally-placed independent school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children identified through the child find process as children eligible for special education, can meaningfully participate in special education and related services.
- (d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed independent school children with disabilities, including a discussion of—

- (1) The types of services, including direct services and alternate service delivery mechanisms;
- (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed independent school children; and
- (3) How and when those decisions will be made;
- (e) Written explanation by the supervisory union regarding services. How, if the supervisory union disagrees with the views of the independent school officials on the provision of services or the types of services (whether provided directly or through a contract) the supervisory union will provide to the independent school officials a written explanation of the reasons why the supervisory union chose not to provide services directly or through a contract.

2368.1.5.2 Written Affirmation

- (a) When timely and meaningful consultation, as required by Rule 2368.1.5.1, has occurred, the supervisory union representative shall obtain a written affirmation signed by the representatives of participating independent schools.
- (b) If the representatives do not provide the affirmation within a reasonable period of time, the supervisory union representative shall forward documentation of the consultation process to the Department.

2368.1.5.3 Compliance

- (a) General. An independent school official has the right to submit an administrative complaint to the Department that the supervisory union—
 - (1) Did not engage in consultation that was meaningful and timely; or
 - (2) Did not give due consideration to the views of the private school official.
- (b) Procedure.
 - (1) If the independent school official wishes to submit a complaint, the official shall provide to the Department the basis of the noncompliance by the supervisory union with the applicable independent school provisions in these rules; and
 - (2) The supervisory union shall forward the appropriate documentation to the Department.
 - (3) (i) If the independent school official is dissatisfied with the decision of the Department, the official may submit a complaint to the Secretary of the U.S. Office of Education by providing the information on noncompliance described in paragraph (b)(1) of this section; and

- (ii) The Department shall forward the appropriate documentation to the Secretary.

2368.1.6 Services Plan, Record Keeping, Equitable Determination and Services

- (a) Consistent with Rule 2368.1.3 and 2368.1.4, a services plan shall be developed and implemented for each child with a disability who has been designated by the supervisory union in which the private school is located to receive special education and related services.
- (b) Record keeping. Each supervisory union shall maintain in its records, and provide to the Department, the following information related to parentally-placed private school children:
 - (1) The number of children evaluated;
 - (2) The number of children determined to be children with disabilities; and
 - (3) The number of children served.

2368.1.6.1 Equitable Services Determined

- (a) No independent school child who is eligible for special education and related services has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
- (b) Decisions.
 - (1) Decisions about the services that will be provided to parentally-placed independent school children who are eligible for special education and related services shall be made in accordance with paragraph (c) of this section and Rule 2368.1.5.1(c).
 - (2) The supervisory union where the independent school is located shall make the final decisions with respect to the services to be provided to eligible parentally-placed independent school children.
- (c) Services plan for each child served under this section. If an eligible child is enrolled in an independent school by the child's parents and will receive special education or related services from a supervisory union, the supervisory union shall—
 - (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Rule 2368.1.6.2 (b); and
 - (2) Ensure that a representative of the independent school attends each meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the independent school, including individual or conference telephone calls.

2368.1.6.2 Equitable Services Provided

(a) General.

- (1) The services provided to parentally-placed independent school children who will be receiving services through a services plan shall be provided by personnel meeting the same standards as personnel providing services in the public schools.
- (2) Parentally-placed private school children who are eligible for special education and related services and will be receiving services through a services plan may receive a different amount of services than children with disabilities in public schools.

(b) Services provided in accordance with a services plan.

- (1) Each parentally-placed independent school child who has been found eligible and who has been designated to receive services shall have a services plan that describes the specific special education and related services that the supervisory union will provide to the child in light of the services that the supervisory union has determined, through the process described in Rules 2368.1.5.1 and 2368.1.6.1, it will make available to parentally-placed independent school children who are found eligible for services.
- (2) The services plan shall, to the extent appropriate—
 - (i) Meet the requirements of an IEP with respect to the services provided; and
 - (ii) Be developed, reviewed, and revised consistent with the requirements for either plan.

2368.1.7 Location of Services; Transportation

- (a) Services on independent school premises. Services to parentally-placed independent school children on a services plan may be provided on the premises of independent, including religious, schools, to the extent consistent with law.

(b) Transportation.

(1) General.

- (i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed independent school child with a disability shall be provided transportation—
 - (A) From the child's school or the child's home to a site other than the independent school; and
 - (B) From the service site to the independent school, or to the child's home, depending on the timing of the services.

(ii) School districts are not required to provide transportation from the child's home to the independent school.

(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the supervisory union has met the minimum proportionate share requirement.

2368.1.8 Funds May Not Benefit an Independent School

(a) A supervisory union may not use funds provided under Part B of the IDEA to finance the existing level of instruction in an independent school or to otherwise benefit the independent school.

(b) The supervisory union shall use funds provided under Part B of the IDEA to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for—

(1) The needs of an independent school; or

(2) The general needs of the students enrolled in the independent school.

2368.1.9 Use of Public and Independent School Personnel to Provide Services

(a) Provision of equitable services. The provision of services shall be provided:

(1) By employees of a supervisory union; or

(2) Through contract by the supervisory union with an individual, association, agency, organization, or other entity.

(b) Special education and related services provided to parentally-placed independent school children with disabilities, including materials and equipment, shall be secular, neutral, and non-ideological.

(c) Use of public school personnel. An LEA may use IDEA-B flow-through grant funds to make public school personnel available in other than public facilities—

(1) To the extent necessary to provide services under a services plan for parentally-placed independent school children with disabilities; and

(2) If those services are not normally provided by the independent school.

(d) Use of independent school personnel. A supervisory union may use IDEA-B flow-through grant funds to pay for the services of an employee of an independent school to provide services under a services plan if—

- (1) The employee performs the services outside of his or her regular hours of duty; and
- (2) The employee performs the services under public supervision and control.

2368.1.10 Property, Equipment and Supplies

- (a) A supervisory union shall control and administer the funds used to provide special education and related services under Rules 2368.1.6 and 2368.1.7, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA-B.
- (b) The school district may place equipment and supplies in an independent school for the period of time needed for the Part B program.
- (c) The supervisory union shall ensure that the equipment and supplies placed in a private school—
 - (1) Are used only for Part B purposes; and
 - (2) Can be removed from the private school without remodeling the private school facility.
- (d) The supervisory union shall remove equipment and supplies from an independent school if:
 - (1) The equipment and supplies are no longer needed for Part B purposes; or
 - (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
- (e) No IDEA-B funds may be used for repairs, minor remodeling, or construction of independent school facilities.

2368.1.11 Complaints

Independent school children with disabilities have the right to file a complaint for due process under Rule 2365.1.6 only for the purpose of pursuing complaints that a school district has failed to meet its responsibilities with regard to child-find, including following procedures for evaluation and determination of eligibility. All other complaints may be pursued by way of the Department of Education's administrative complaint procedure.

2368.3 School Districts without a Public School

A school district that does not maintain a public school or has not designated, in accordance with applicable law, an approved independent school at the grade level needed by a resident student eligible for special education, shall provide the student a free appropriate public education. All special education evaluations, planning and due process procedures, as required by these rules and by federal law, shall be made available to students who are referred for a special education

evaluation or who are eligible for special education and to their parents. The location for IEP services shall be determined in the following manner:

- (a) The choice of a specific school(s) appropriate to fulfill the IEP, including the requirements to educate the student in the least restrictive environment, shall be determined by a student's IEP team after the IEP is developed. If the IEP team does not reach consensus about the location of services, the school district representative shall determine the location of services. This shall be communicated to the parents within five working days of this determination.
- (b) If the parents choose to have their child served, pursuant to his or her IEP, at a school other than that selected by the IEP team or by the school district representative, and the IEP team agrees that the IEP can be adequately implemented at the school chosen by the parents, the following shall be applicable:
 - (1) Public School: If the parents select a public school, the district shall pay any special education tuition or excess costs allowed by law.
 - (2) Independent School:
 - (i) If the parents select an independent school approved for special education purposes that is generally attended by regular education students that a non-special education student from the school district could choose to attend, the district shall fund the actual costs associated with the parents' placement minus any costs that would accrue to the parents of a non-special education student placed at the same school.
 - (ii) If the parents select an independent school not generally attended by regular education students, the district shall pay the actual educational costs associated with the parents' placement to the amount that would have been spent on the school chosen by the IEP team provided the school selected by the parents is approved for special education in the area of the child's disability.

2368.4 Placement of Children by Parents if FAPE is at Issue

- (a) School districts are not required to pay for the cost of education, including special education and related services, of a child eligible for special education at an independent school or facility, if the school district has offered to make a FAPE available to the child and the parents elected to place the child in an independent school or facility. However, the supervisory union shall include that child in the population whose needs are addressed consistent with Rules 2368.1.1 through 2368.1.11.
- (b) Reimbursement for independent school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a school district, enroll the child in an independent elementary school, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or

hearing officer finds that the district had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the Department and school districts.

(c) Limitation on reimbursement. The cost of reimbursement described in paragraph (b) of this section may be reduced or denied—

(1) If—

(i) At the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the school district to provide FAPE to their child, including stating their concerns and their intent to enroll their child in an independent school at public expense; or

(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the school district of the information described in paragraph (c)(1)(i) of this section;

(2) If, prior to the parents' removal of the child from the public school, the school district informed the parents, through the notice requirements described in Rule 2365.1.1 of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(d) Exception. Notwithstanding the notice requirement in paragraph (c)(1) of this section, the cost of reimbursement:

(1) Shall not be reduced or denied for failure to provide the notice if:

- (i) The school prevented the parent from providing the notice;
- (ii) The parents had not been informed about the requirements placed on them in paragraph (c)(1) of this rule before they took action to place their child; or
- (iii) Compliance with paragraph (c)(1) of this section would likely result in physical harm to the child; and

(2) May, at the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if:

- (i) The parent is not literate or cannot write in English; or
- (ii) Compliance with paragraph (c)(1) of this section would likely result in serious emotional harm to the child.

SUSPECTED CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

33 V.S.A. § 4913

(a) Any physician, surgeon, osteopath, chiropractor, or physician's assistant licensed, certified, or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, dentist, psychologist, pharmacist, any other health care provider, school superintendent, school teacher, school librarian, child care worker, school principal, school guidance counselor, mental health professional, social worker, probation officer, police officer, camp owner, camp administrator, camp counselor, or member of the clergy who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of section 4914 of this title within 24 hours. As used in this subsection, "camp" includes any residential or nonresidential recreational program.

(b) Any other concerned person not listed in subsection (a) of this section who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 4914 of this title.

(c) Any person enumerated in subsection (a) or (b) of this section, other than a person suspected of child abuse, who in good faith makes a report to the department of social and rehabilitation services shall be immune from any civil or criminal liability which might otherwise be incurred or imposed as a result of making a report.

(d) The name of and any identifying information about either the person making the report or any person mentioned in the report shall be confidential unless the person making the report specifically allows disclosure or unless a judicial proceeding results therefrom or unless a court, after a hearing, finds probable cause to believe that the report was not made in good faith and orders the department to make the name of the reporter available.

(e)(1) A person who violates subsection (a) of this section shall be fined not more than \$500.00.

(2) A person who violates subsection (a) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

(3) This section shall not be construed to prohibit a prosecution under any other provision of law.

(f) Except as provided in subsection (g) of this section, a person may not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(g) A member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is:

- (1) made to a member of the clergy acting in his or her capacity as spiritual advisor;
- (2) intended by the parties to be confidential at the time the communication is made;
- (3) intended by the communicant to be an act of contrition or a matter of conscience; and
- (4) required to be confidential by religious law, doctrine, or tenet.

(h) When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection (g) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection (g) of this section. (Added 1981, No. 207 (Adj. Sess.), § 1, eff. April 25, 1982; amended 1983, No. 169 (Adj. Sess.), § 1; 1985, No. 208 (Adj. Sess.), § 19, eff. June 30, 1986; 1989, No. 295 (Adj. Sess.), § 3; 1993, No. 156 (Adj. Sess.), § 1; 2003, No. 43, § 3, eff. May 27, 2003; 2005, No. 101 (Adj. Sess.), § 2; 2007, No. 77, § 1, eff. June 7, 2007; 2007, No. 172 (Adj. Sess.), § 19.)

§ 4913. Reporting suspected child abuse and neglect; remedial action

(a) Any physician, surgeon, osteopath, chiropractor, or physician's assistant licensed, certified, or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, emergency medical personnel as defined in subdivision 2651(6) of Title 24, dentist, psychologist, pharmacist, any other health care provider, child care worker, school superintendent, school teacher, school librarian, school principal, school guidance counselor, and any other individual who is regularly employed by a school district, or who is contracted and paid by a school district to provide student services for five or more hours per week during the school year, mental health professional, social worker, probation officer, police officer, camp owner, camp administrator, camp counselor, or member of the clergy who has reasonable cause to believe

that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of section 4914 of this title within 24 hours. As used in this subsection, "camp" includes any residential or nonresidential recreational program.

(b) The commissioner shall inform the person who made the report under subsection (a) of this section:

- (1) whether the report was accepted as a valid allegation of abuse or neglect;
- (2) whether an assessment was conducted and, if so, whether a need for services was found; and
- (3) whether an investigation was conducted and, if so, whether it resulted in a substantiation.

(c) Any other concerned person not listed in subsection (a) of this section who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 4914 of this title.

(d)(1) Any person other than a person suspected of child abuse, who in good faith makes a report to the department shall be immune from any civil or criminal liability which might otherwise be incurred or imposed as a result of making a report.

(2) An employer or supervisor shall not discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to any employee because that employee filed a good faith report in accordance with the provisions of this subchapter. Any person making a report under this subchapter shall have a

civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of his or her making a report.

(e) The name of and any identifying information about either the person making the report or any person mentioned in the report shall be confidential unless:

- (1) the person making the report specifically allows disclosure;
- (2) a human services board proceeding or a judicial proceeding results therefrom;
- (3) a court, after a hearing, finds probable cause to believe that the report was not made in good faith and orders the department to make the name of the reporter available; or
- (4) a review has been requested pursuant to section 4916a of this title, and the department has determined that identifying information can be provided without compromising the safety of the reporter or the persons mentioned in the report.

(f)(1) A person who violates subsection (a) of this section shall be fined not more than \$500.00.

(2) A person who violates subsection (a) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

(3) This section shall not be construed to prohibit a prosecution under any other provision of law.

(g) Except as provided in subsection (h) of this section, a person may not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(h) A member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is:

- (1) made to a member of the clergy acting in his or her capacity as spiritual advisor;
- (2) intended by the parties to be confidential at the time the communication is made;
- (3) intended by the communicant to be an act of contrition or a matter of conscience; and
- (4) required to be confidential by religious law, doctrine, or tenet.

(i) When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection (h) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection (h) of this section. (Added 1981, No. 207 (Adj. Sess.), § 1, eff. April 25, 1982; amended 1983, No. 169 (Adj. Sess.), § 1; 1985, No. 208 (Adj. Sess.), § 19, eff. June 30, 1986; 1989, No. 295 (Adj. Sess.), § 3; 1993, No. 156 (Adj. Sess.), § 1; 2003, No. 43, § 3, eff. May 27, 2003; 2005, No. 101 (Adj. Sess.), § 2; 2007, No. 77, § 1, eff. June 7, 2007; 2007, No. 168 (Adj. Sess.), § 3, eff. Jan. 1, 2009; No. 172 (Adj. Sess.), § 19.)

Suspected child abuse and neglect needs to be report to the Department for Children and Families (DCF). The Vermont Child Protection line is 1-800-649-5285.

TUITION TO APPROVED SCHOOLS, AGE, APPEAL
16 V.S.A. §828

A school district shall not pay the tuition of a pupil except to a public or independent school or tutorial program approved by the state board, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

SPECIAL EDUCATION
APPROVAL
of
INDEPENDENT SCHOOLS

SPECIAL EDUCATION APPROVAL OF INDEPENDENT SCHOOLS

Below are the State Board of Education rules for Independent Schools who want to be approved for special education. Note: Schools must have general independent school approval before being approved for special education.

2228 Special Education Approval of Independent Schools

2228.1 (1) In order for an in-state independent school to receive approval for purposes of Rules 2224.2 and 2228.2 and 16 V.S.A. 2958(e), it must obtain general independent school approval pursuant to Rule 2220, and also receive approval for special education purposes from the State Board of Education that its staff, programs and facilities meet state and federal special education standards.

(2) Limitation of Special Education Approval.

Each special education approval may be limited to one or more categories of disability, as defined in Rule 2362.1, according to the services the school provides.

(3) Out-of-state Programs.

Unless otherwise determined by the Vermont State Board of Education, in order for an out-of-state independent school to be approved for special education purposes by the Vermont State Board of Education, it must be approved by the host state for the purpose of providing special education and related services to children with disabilities within that state. Any limitation by the host state on an independent school's special education approval, such as by category of disability served, or other comparable standard, shall also apply to the school's special education approval in Vermont.

2228.2 Placement Prohibition

(1) Placement Prohibition.

No responsible agency, as defined by Rule 2360.3, shall make a special education placement in an independent school that has not been approved for special education purposes nor shall such a placement be made in an independent school that serves special education students who are in a category of disability different from that under which the student was determined to be eligible for special education unless the placement is pursuant to:

- (a) Subsection (2) of this rule,
- (b) A court order, or
- (c) A hearing officer order.

(2) Exceptional Circumstances - Approval Process

Upon application by a responsible school district, the Commissioner may permit, in exceptional circumstances, a special education placement in an independent school that is approved pursuant to Rule 2220, but has not received approval for special education purposes pursuant to Rule 2228.1. Notwithstanding Rule 2366.2.2(7), in instances in which the Commissioner grants such approval, tuition and associated otherwise allowable costs shall be reimbursable under subchapter 2 of Chapter 101 of Title 16 of the Vermont Statutes Annotated. Any person aggrieved by the Commissioner's decision may file an appeal with the State Board of Education pursuant to 16 V.S.A. §828.

(a) Exceptional circumstances exist when:

- (i) After reasonable efforts, the LEA cannot locate an appropriate public or independent school approved for special education purposes pursuant to Rule determined to be eligible for special education; and
- (ii) The proposed placement is deemed appropriate by the student's IEP team.

(b) The Commissioner may specify conditions under which the placement is to be carried out.

2228.3 In order to obtain special education approval, an independent school shall meet standards that apply to state and local education agencies. This shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate, in at least the following areas:

- (1) admissions;
- (2) least restrictive environment;
- (3) discipline;
- (4) graduation;
- (5) faculty qualifications; and
- (6) faculty-student ratios, including ratios that meet the Vermont School Quality Standards for the direct provision of special education and related services or consultation regarding the provision of special education and related services to publicly-placed students on IEPs;

2228.3.1 In order to obtain special education approval, an independent school shall coordinate with sending responsible agencies, parents, public agencies and other service providers serving a student by:

- (1) maintaining educational records and disclosing them to the sending responsible agency and the student's parents;
- (2) participating in evaluation procedures and in the development of IEPs, including plans for reintegration and transition services;
- (3) implementing IEPs; and
- (4) providing prior notice to the sending LEA regarding the need for a change in a student's program or placement, including long-term suspension or expulsion.

These practices shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate.

2228.3.2 An independent school shall satisfy the state licensure requirements for personnel who are responsible for the provision or supervision of special education and related services.

2228.4 Written Agreements Required

2228.4.1 Agreement as to Costs

In order to obtain special education approval, an independent school shall assure the State Board of Education that prior to enrolling a publicly-placed student who is served pursuant to an IEP, it will enter into a written agreement with the sending responsible agency that outlines tuition, room, board and other costs associated with the student's attendance. For students on an IEP who are placed by a state agency or a designated community mental health agency, or any other agency defined by the Commissioner, in accordance with 16 V.S.A. §2948, the agreement shall be with the Commissioner of Education. In the instance of an emergency placement, such provisions may be agreed upon within thirty days of the student's enrollment.

2228.4.2 Agreement as to Non-Instructional Services

In order to obtain special education approval, an independent school shall assure the State Board of Education that within thirty days of enrolling a publicly-placed student who is served pursuant to an IEP, it will enter into written agreement with the sending responsible agency as to the division of responsibility for performance of non-instructional services, including compliance with special education procedural requirements. For students placed by a state agency or a designated community mental health agency, or another agency defined by the Commissioner, this agreement shall be with the local educational agency that has educational planning responsibility for the student.

2228.5 Special Education Approval Procedures

- (1) Application for special education approval shall be made at the time of application under Rule 2200. An independent school that has already obtained independent school approval from the State Board of Education may at any time submit an application for special education approval to the Commissioner.
- (2) Application for special education approval shall be submitted in writing to the Commissioner in accordance with the format prescribed by the Commissioner.
- (3) The procedures for special education approval shall be the same as those for approval in accordance with Rules 2222.1 through 2222.7. To the extent possible, these procedures shall occur simultaneously.

2228.6 After receiving approval for special education purposes, an independent school shall notify the Commissioner of any significant changes to its special education program, professional staff, governance, financial capacity or facilities. The Commissioner may, upon such notification, gather additional information from the school, including by means of a site visit. As a result, the commissioner may return to the State Board for a change in the school's approval for special education purposes. If the Commissioner petitions the State Board for a change to an independent school's approval for special education purposes, the Council of Independent Schools and the subject independent school shall be notified and have an opportunity to be heard by the State Board. If the school disagrees with the proposed change to its approval for special education purposes, the Board shall hear the matter in accordance with the requirements of Rule 1230, et seq.

2228.7 Independent schools that are approved for special education purposes shall be deemed to offer a minimum standard of service to a student, as required by 16 V.S.A. 2973, if those services are offered according to a written agreement with the sending responsible agency, as required by Rule 2228.4.

2228.8 Rate Approval for Independent Schools Approved for Special Education Purposes

- (1) Each independent school approved for special education purposes by the State Board of Education shall annually report its rates for special education tuition, related services and room and board to the Commissioner on a form prescribed for that purpose.
- (2) The rates that an independent facility approved for special education purposes charges for tuition, related services and room and board shall be no more than the costs that are reasonably related to the level of services provided to its publicly-placed special education students. Reasonable relationship shall be determined by utilizing generally accepted

accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

- (3) The Commissioner shall review each special education approved independent school's annual rate report. If the Commissioner concludes that a special education approved independent school's rates are not reasonably related to the level of services provided to publicly-placed special education students, the Commissioner shall make a determination as to the maximum rate that public schools and the State Department of Education would pay to the independent school for those services and offer the school an opportunity for explanation regarding why the maximum rate the Department would pay is not adequate. If the explanation is not satisfactory to the Commissioner, he or she shall notify the Council for Independent Schools and shall refer the matter to the State Board of Education.
 - (a) Upon such referral by the Commissioner, the Board shall conduct a formal proceeding in accordance with the requirements of Rule 1230, et seq.
 - (b) The State Board's determination shall be final.
- (4) Timelines for rate approvals from the Department:
 - (a) To have a new rate approved for the ensuing school year, an independent school shall submit a request for rate approval with supporting documentation to the Department prior to November 15. The Commissioner shall notify the independent school of the results of the review on or before January 15.
 - (b) If a request for a new rate approval is not submitted by November 15, the most recent approved rate will be in effect until the following November 15, when the next rate request is due.

2228.9 Standards and Regulations

The Vermont State Board of Education shall afford the opportunity for approved independent schools to participate in the development and revision of state standards that apply to independent schools.

VERMONT STATUTE FOR INDEPENDENT SCHOOL TUITION RATES

Independent School Tuition Rates 16 V.S.A. §2973

The commissioner shall establish minimum standards of services for students receiving special education in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the department and school districts for tuition, room and board based on level of services and may advise independent schools as to the need for certain special education services in Vermont.

- (b) Neither school districts nor any state agency shall pay rates for tuition, room and board for students receiving special education in schools outside Vermont, that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the commissioner.
- (c) The state board is authorized to enter into interstate compacts with other states to regulate the rates for tuition, room and board for students receiving special education in independent schools. —Added 1989, No. 230 (Adj. Sess.), §28; 1991, No. 24 §11.

For Independent Schools with Special Education Approval

**WRITTEN AGREEMENTS
FOR NON-INSTRUCTIONAL SERVICES**

In order to obtain special education approval, an independent school shall assure the State Board of Education that within thirty days of enrolling a publicly-placed student who is served pursuant to an IEP, it will enter into written agreement with the sending responsible agency as to the division of responsibility for performance of non-instructional services, including compliance with special education procedural requirements. For students placed by a state agency or a designated community mental health agency, or another agency defined by the Commissioner, this agreement shall be with the local educational agency that has educational planning responsibility for the student.

General areas to be addressed:

When students who are eligible for special education are enrolled in independent schools, the independent school accepts some responsibility for protecting the due process rights of its students. The responsibility that procedural requirements have been met rests with the sending school district (LEA). However, it is also the responsibility of the independent school to enable the sending LEA to meet its legal responsibility. The written agreement specifies the role that the Independent School plays in carrying out the procedural requirements of the activities listed below.

Referrals - This applies to schools which enroll students who are not eligible for special education and refers to the process by which the sending LEA is notified of an in-school referral for evaluation, accommodations or special education services, or other instructional support.

Evaluations - This refers to the division of responsibility for initiating meetings, conducting evaluation procedures, and writing reports.

IEPs - This refers to the division of responsibility for initiating annual reviews, other IEP related meetings, and the completion of the state required IEP form. It may also include reference to participation in the development of reintegration plans, transition plans, graduation, and multi-year plans, when appropriate.

Prior written notice of proposed change or refusal of change (Form 9) – A school district must provide written notice to parents before it proposes to initiate or change or refuses to initiate or change a student's identification, evaluation, educational placement on the division of special education services.

If a student is due to graduate with a regular high school diploma or will be attaining the age when his/her entitlement to a FAPE ends, there is no requirement to conduct a special education evaluation. The school district shall send a notice to the student and his/her parent(s) that a change of placement is scheduled to occur and give the reasons why.

Utilization of State Forms - This refers to the decision by the independent school about the utilization of the State Forms or ways in which the independent school's documentation procedures can be coordinated with the LEA responsibility for using the State Forms.

Written Agreement Requirements:

All written agreements for non-instructional services should clearly state that the independent school:

- 1) abides by the Family Education Rights and Privacy Act (FERPA) requirements for confidentiality and the maintenance of educational records,
- 2) abides by the Special Education requirements regarding the destruction of records, and
- 3) will not expel a student who is publicly-placed unless the Evaluation and Planning Team has determined that the misbehavior is not related to the category of disability or there is an IEP written which calls for a different placement.

Individual Student Considerations:

Sometimes the written agreement will contain additional statements relating to specific conditions of a student's program. Examples of situations which may warrant such statements are listed below.

Training or consultation for specific programmatic areas.

Conditions surrounding the employment of individual aides for students.

Reassigning responsibility of particular components of the IEP (e.g. interagency planning for transition plans).

Communicating with parents in their native language.

Any other procedural requirements.

Guidelines for Written Agreements for Tuition

Written agreements are required by State Board rule 2228.4.1 for the purpose of clarifying the services provided for a student in exchange for the tuition and other costs charged. These agreements are the responsibility of the Independent School and are between the Independent School and the Local Education Agency (LEA).

Following are the required components of the written agreements:

Name of Independent School.

Name of Local Education Agency or specify Vermont Department of Education.

Name of Student.

Amount of Tuition.

Services Provided - Refer to whether the services are educational and residential. Specify whether this tuition includes all of the services in the IEP or which services are or are not included.

Additional Costs - (Remember these must be approved in your rates) - Specify these costs and the services which these cover.

The Department has not yet developed its final position on some practices of independent schools including collecting down payments for damage accounts, medical accounts, student allowances, and recreation expenses. In addition, current practices concerning refunds of tuition upon student withdrawal are being reviewed. These issues will be addressed through the rate approval process and will require discussion with the Department.

COST AGREEMENTS FOR PUBLICLY FUNDED STUDENTS

REFUNDS:

The three issues to be addressed with respect to refunds are: what portion of the prepaid tuition is refunded to the sending LEA if a student is withdrawn; is the amount of the refund affected by who initiates the withdrawal, i.e. student, parent, LEA or independent school; and, is any tuition refunded as the result of a prolonged absence? We believe that the following are sound and fair policies:

1. If a student's withdrawal is initiated by the student, the student's parent(s), or the sending LEA, tuition collected for the period commencing thirty days after the effective date of the withdrawal will be refunded to the sending LEA.
2. If a student's withdrawal is initiated by the independent school, tuition collected for the period commencing after the effective date of the withdrawal will be refunded to the sending LEA.
3. If a student is absent for more than 30 consecutive days in a school year, tuition collected for the period commencing on the thirty-first day will be refunded to the sending LEA, unless the independent school is providing services to the student during the period of absence. In such case, the refund is prorated, by agreement between the independent school and the sending LEA, according to the amount, type, and location of service being provided.

STUDENT ACCOUNTS:

The two issues to be addressed with respect to students accounts are: which of these costs can be reasonably expected to be borne by the sending LEA and which by the parent; can contributions to student accounts be required without denying a student's right to a free and appropriate public education? We believe that the following represent sound and fair policies:

1. Contributions into allowance, damage, medical and recreation accounts may be required so long as the student is not denied a free and appropriate public education as the result of a parent's unwillingness or inability to make such a contribution.
2. The sending LEA would contribute to these accounts only after the IEP team has determined that the services accessed via these accounts constitute a related service for the student.
3. Deposits to accounts which are only used if needed, e.g. damage or medical, must be held in an interest bearing account and returned with interest at the end of the school year or when the student withdraws.

We further recommend the following:

1. Independent schools establish flexible payment plans for student accounts.
2. Independent schools note in their Written Agreements for Cost the additional charges required for student accounts.

Recognized Independent School Cover Sheet

200__ -200__ School Year

Name of School: _____

Name of Chief Education Officer
or Contact Person: _____

Address: _____

Telephone: _____

Email Address: _____

Grades: _____

(If you use an alternative to a graded system please describe below or on separate sheet(s) if necessary.)

Name of Local Supervisory Union: _____

Statement of Hours and Days

Education activities regularly begin at _____ and regularly end at _____

Total school days: _____

Comments:

Recognized Independent School Statement of Objectives

In the space below, or on a separate sheet, state the objectives of the school.

Recognized Independent School Statement of Minimum Course of Study

In the space below, or on a separate sheet of paper, state the minimum course of study for each level taught.

Recognized Independent School Statement of Assessment Procedures

In the space below or on a separate sheet of paper describe how the annual assessment of each pupil will be performed.

Recognized Independent School Statement of Assurances

In making this report to the Commissioner, the school makes the following assurances:

- A) The school will prepare and maintain attendance records for each pupil enrolled or regularly attending classes;
- B) At least once each year the school will assess each pupil's progress and will maintain records of that assessment, and present the results of that assessment to each student's parent or guardian;
- C) The school will have teachers and materials sufficient to provide the minimum course of study;
- D) The school's educational program will include the minimum course of study set forth in section 906 of this title; and
- (E) The school will meet such state and federal laws and regulations concerning its physical facilities and health and safety matters as are applicable to recognized independent schools.

Signature: _____ **Date:** _____

Title: _____

Recognized Independent School Statement of Policies and Procedures

In signing this statement of policies and procedures, the school is verifying to the Commissioner that it has adopted harassment and hazing prevention policies and established procedures for dealing with harassment and hazing of students, pursuant to 16 V.S.A. §166(e).

Your signature on this form verifies that your school has policies in place that are at least as stringent as the Department of Education's model policies.

Signature: _____

Title: _____

Date: _____

Independent School Calendar

School Year 200__ - 200__

School: _____ Grades: _____
 Address: _____ Telephone _____

Please indicate which days the school will be in session.

<p>September 200__</p> <table border="0" style="width: 100%;"> <tr> <td>M</td><td>T</td><td>W</td><td>T</td><td>F</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> </table>	M	T	W	T	F	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	<p>OCTOBER 200__</p> <table border="0" style="width: 100%;"> <tr> <td>M</td><td>T</td><td>W</td><td>T</td><td>F</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> </table>	M	T	W	T	F	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	<p>NOVEMBER 200__</p> <table border="0" style="width: 100%;"> <tr> <td>M</td><td>T</td><td>W</td><td>T</td><td>F</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>—</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> </table>	M	T	W	T	F	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
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The total school days scheduled is: _____.

This form must
be
NOTARIZED



Vermont Department of Education
Office of Licensing and Professional Standards
120 State Street
Montpelier, VT 05620-2501
(802) 828-2445

Oath or Affirmation

- ☐ I do solemnly swear (or affirm) that I will support the Constitution of the United States and the State of Vermont and the Laws of the United States and of the State of Vermont.

Signature

Date

- ☐ I am a citizen of a foreign country. Under Title 16 § 12, I am not required to sign this Oath.

Signature

Date

To be valid this must be completed by a notary public.

Subscribed and sworn or affirmed before me this ____ day of _____, 200__.

Signature

Title